Volume 2

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

2006

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 6, 2006
and General Election, November 7, 2006

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

2005–06 Regular Session
2005–06 First Extraordinary Session
2005–06 Second Extraordinary Session

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CHAPTER 48

An act to amend and supplement the Budget Act of 2006 by amending Items 0250-001-0001, 0250-101-0932, 0250-111-0001, 0520-001-0001, 0520-001-0044, 0520-101-0001, 0690-102-0001, 2640-101-0046, 2660-001-0042, 3600-001-0001, 3790-001-0001, 3820-001-0001, 3860-001-0001, 3900-001-0044, 3940-001-0001, 3940-001-0193, 3940-001-3058, 3960-001-0001, 3960-001-0014, 3960-001-0557, 4120-001-0001, 4260-001-0001, 4260-111-0001, 4280-001-0001, 4280-102-0001, 5225-001-0001, 5225-101-0001, 6110-108-0001, 6110-113-0001, 6110-128-0001, 6110-137-0001, 6110-161-0001, 6110-182-0001, 6110-190-0001, 6110-195-0001, 6110-196-0001, 6110-204-0001, 6110-265-0001, 6110-295-0001, 6360-101-0001, 6440-001-0001, 6610-001-0001, 8885-295-0001, 8885-299-0001, 8955-001-0083, and 9210-101-0001 of, by adding Items 6110-260-0001, 6110-268-0001, and 9210-105-0001 to, and by repealing Items 4280-103-0001, 6110-141-0001, 6110-262-0001, and 9619-399-0001 of, Section 2.00 of, and by amending Section 35.50 of, that act, relating to the State Budget, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

I object to the following appropriations contained in Assembly Bill 1811.

Item 0250-101-0932—For local assistance, Judicial Branch. I reduce this item from $2,802,900,000 to $2,792,900,000 by reducing:

(4) 45.45-Court Interpreters from $96,126,000 to $86,126,000.

I am deleting the $10,000,000 legislative augmentation to provide interpreters in civil cases. I believe it is essential to provide non-English speaking litigants with interpreters in order to provide meaningful access to our justice system, and as such, I expect that the Judicial Council will identify efficiencies and best practices, and will, to the extent possible, expand the use of interpreters in civil cases using existing resources. This is consistent with the agreement I have with the Chief Justice regarding funding for the Courts, which provides a stable funding level for the Judicial Branch and allows the Judicial Council to prioritize programs within that annual augmentation, as is appropriate for an independent branch of government.

I am deleting Provision 11 to conform to this action.

Item 0250-111-0001—For transfer by the Controller to the Trial Court Trust Fund. I reduce this item from $1,612,357,000 to $1,602,357,000.

I am deleting the $10,000,000 legislative augmentation to provide interpreters in civil cases to conform to the action taken in Item 0250-101-0932.

Item 0690-102-0001—For local assistance, Office of Emergency Services. I reduce this item from $56,699,000 to $56,249,000 by reducing:

(1.5) 50.20-Victim Services from $9,317,000 to $9,267,000;

(2.5) 50.30-Public Safety from $52,953,000 to $52,553,000;

and by deleting Provision 8.

I am deleting the $450,000 legislative augmentation for the California Innocence Protection Program and the Youth Emergency Telephone Referral Hotline.

I am confident that these programs will be able to obtain private funding as they have in the past. With these reductions, $127,000 still remains to support the Youth Emergency Telephone Referral Hotline.

I am deleting Provision 8 to conform to this action.

Item 2660-001-0042—For support of Department of Transportation. I reduce this item from $2,322,131,000 to $2,310,701,000 by reducing:

(2) 20.10-Highway Transportation—Capital Outlay Support from $1,394,844,000 to $1,375,244,000;

(17) Amount payable from the Federal Trust Fund (Item 2660-001-0890) from -$547,224,000 to -$539,054,000;

and by deleting Provision 13.

I am deleting the $11,430,000 legislative augmentation to increase funding in the Capital Outlay Support Program. The Legislature augmented this item in order to provide funding for workload associated with the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 on the November 2006 ballot, as provided by Chapter 25, Statutes of 2006. However, this funding is unnecessary, because all of the capital outlay support work related to the bond act in 2006-07 will have already been completed within existing resources. Any future bond-related work should be funded out of the bond proceeds instead of using these scarce State Highway Account resources that are needed for ongoing maintenance of state highways.

I am deleting Provision 13 to conform to this action.

I am also revising Items 2660-001-0890 and 2660-002-3007 to conform to the revision in this item.

Item 3600-001-0001—For support of Department of Fish and Game. I reduce this item from $101,813,000 to $100,813,000 by reducing:

(3) 30-Management of Department Lands and Facilities from $67,020,000 to $66,020,000,

and by deleting Provision 15.

I am deleting the legislative augmentation of $1,000,000 and 8.0 positions for land management activities. With this reduction, $66,000,000 still remains to support the management of department-owned lands and facilities, including wildlife areas, ecological reserves, and fish hatcheries.

I am deleting Provision 15. The Budget Act of 2006 includes $10,000,000 for salmon restoration projects on the Klamath River. The proposed provisional language would shift $4,000,000 from Klamath River restoration projects to the Fisheries Restoration Grant Program, subjecting these funds to a lengthy grant process. The intent of the Budget Act appropriation is to restore critical salmon habitat on the Klamath River as soon as possible through projects

administered directly by the Department of Fish and Game. With this action, the Budget Act still provides $4,000,000 to support the Fisheries Restoration Grant Program.

Item 3790-001-0001—For support of Department of Parks and Recreation. I reduce this item from $377,959,000 to $377,784,000 by reducing:

(1) For support of the Department of Parks and Recreation from $605,378,000 to $605,203,000.

I am reducing this item by $175,000 and 2.0 positions for the Main Street Program. Existing law specifies a funding mechanism for this program and providing a General Fund augmentation would be inconsistent with those provisions.

Item 3900-001-0044—For support of Air Resources Board. I reduce this item from $160,579,000 to $135,579,000 by reducing:

(1) 15-Mobile Source from $272,255,000 to $257,255,000, and

(2) 25-Stationary Source from $51,210,000 to $41,210,000.

I am deleting the $25,000,000 legislative augmentation to reduce emissions from locomotives, construction equipment, and dairy equipment. Notwithstanding the merits of the funding, this reduction is necessary because planned and anticipated expenditures limit the resources available in the Motor Vehicle Account to support new expenditures. Furthermore, the Budget already provides $90,000,000 for the Carl Moyer Program to fund cost-effective emission reduction projects, $25,000,000 to replace pre-1977 school buses with new clean buses that meet federal safety standards, and $25,000,000 to develop clean alternative fuels and promote zero emission vehicles.

Item 4260-001-0001—For support of Department of Health Services. I delete Provisions 7 and 8.

I am deleting Provision 7 because exempting all clinical positions within the Department of Health Services Licensing and Certification Division from unallocated reductions is an infringement on the Executive Branch's budget development process and restricts my authority to prepare a budget which reflects my spending priorities within available fiscal resources.

I am deleting Provision 8 to conform to the action I took in Item 4120-101-0001.

Item 4260-111-0001—For support of Department of Health Services. I reduce this item from $569,157,000 to $560,157,000 by reducing:

(5) 10.30.040-Chronic Diseases from $187,890,000 to $185,890,000;

(6) 10.30.050-Communicable Disease Control from $74,711,000 to $68,711,000;

(9) 20.40-Primary Care and Family Health from $1,536,864,000 to $1,535,864,000;

and by revising Provision 4.

I am deleting the $2,000,000 legislative augmentation for the California Children's Dental Disease Program (CDDPP). With this reduction, $3,300,000 still remains to support 33 programs statewide, serving over 1,200 schools and 326,000 children. In addition, this Budget includes $1,500,000 in the Medi-Cal and $500,000 in the Healthy Families programs for dental services related to my proposal to ensure dental screenings are available for California's school children.

I am sustaining $3,000,000 and deleting $6,000,000 of the $9,000,000 legislative augmentation for West Nile Virus (WNV). Last year I provided $12,000,000 in one-time funding to enhance mosquito control efforts and reduce death and illness from WNV. That

funding should continue to have an effect this year. Local mosquito and vector control agencies and other local governmental entities should continue to utilize local government revenue to support their ongoing efforts. Furthermore, the Budget contains an additional $1,000,000 in ongoing funding to support an effective, long-term, strategic plan for WNV, including a multifaceted surveillance program, extensive public education, and assistance to local agencies and the medical and veterinary communities. In the event unforeseen circumstances result in the depletion of funds to fight this infectious disease, I will consider administrative remedies to provide funding to the extent appropriate. I am revising Provision 4 to conform to this action as follows:

"4. (a) Of the amount appropriated in this item, the Department of Health Services shall, at the discretion of the director, allocate ~~$9,000,000~~ *$3,000,000* to local mosquito and vector control agencies or other governmental entities, or contract with other entities to supplement resources for local mosquito control efforts to mitigate the threat of West Nile Virus transmission. In allocating these funds, the director shall first address high priority areas and "hot spots," based on epidemiological studies and related information to mitigate the spread of the disease. These funds shall not be used to supplant existing local vector control agency funds.

(b) In response to the public health implications of the West Nile Virus, and in order to expedite the implementation of mosquito control efforts funded by no more than ~~$9,000,000~~ *$3,000,000* appropriated in this item, the department may make and receive grants and enter into contracts and interagency agreements. The department shall be exempt from competitive bidding requirements and shall be exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code."

I am sustaining the legislative augmentation to provide $272,000 AIDS Drug Assistance Program Rebate Fund and 3.0 positions to support expansion of the Ryan White Comprehensive AIDS Resources Emergency Health Insurance Premium Payment (CARE/HIPP) Program. There is likelihood that cost avoidance may materialize in future years due to this program expansion.

I am sustaining the legislative augmentation to provide $20,000,000 federal funds, anticipated from the second federal award for pandemic influenza, to purchase medical supplies and equipment to strengthen the state's health care surge capacity needs.

I am deleting the $1,000,000 legislative augmentation which would increase resources for Indian Health Clinics. With this reduction, $6,900,000 still remains in the Department of Health Services for this purpose.

Item 6360-101-0001—For local assistance, Commission on Teacher Credentialing (Proposition 98). I revise Provision 2.

While I am sustaining the $1,267,000 legislative augmentation for increasing the per participant funding rate for the Paraprofessional Teacher Training Program, I am making a technical revision to the language in this item because it is inconsistent with the intent of the augmentation.

I am revising Provision 2 to conform to this action as follows:

"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 pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25 of the Education Code. Of these funds, $1,267,000 is available to increase the per participant rate ~~and to address participant waiting lists pursuant to the enactment of legislation during the 2005-06 Regular Session~~."

Item 6440-001-0001—For support of University of California. I reduce this item from $2,835,604,000 to $2,834,604,000 by reducing:

(1) Support from $2,752,108,000 to $2,751,108,000,

and by revising Provision 13 and deleting Provision 24.

I am deleting the $1,000,000 legislative augmentation for research on obesity and diabetes. This reduction exceeds the level of funding provided under the Higher Education Compact and is necessary to limit program expansions and to provide for a prudent General Fund reserve.

I am deleting Provision 24 to conform to this action.

In addition, I am revising Provision 13 to delete language that describes a new methodology for determining the marginal cost of each additional state-supported student in the future. The new formula is not transparent, is too difficult to either replicate or verify allowing for the potential of manipulation in future years, and does not properly reflect the full mix of new faculty associated with the system-wide growth in students.

I am revising Provision 13 to conform as follows:

"13. Of the funds appropriated in Schedule (1), $50,980,000 is to fund 5,149 additional state-supported full-time equivalent (FTE) students at the University of California, based on a marginal General Fund cost of $9,901 per additional student. ~~This funding rate is based on a new methodology for determining the marginal cost of each additional state-supported student. This methodology calculates a total marginal cost (including operation and maintenance costs and faculty costs based on the salaries of recently hired professors) and then subtracts from this cost the fee revenue the university anticipates from each additional student (after adjusting for financial aid), in order to determine the amount of General Fund support needed from the state. It is the intent of the Legislature that enrollment growth funding provided to the university in subsequent budgets be based on this new methodology.~~ The Legislature expects the University of California to enroll a total of 193,455 state-supported FTE students during the 2006-07 academic year. This enrollment target does not include nonresident students and students enrolled in non-state-supported summer programs. The University of California shall report to the Legislature by March 15, 2007, on whether it has met the 2006-07 enrollment goal. For purposes of this provision, enrollment totals shall only include state-supported students. If the University of California does not meet its total state-supported enrollment goal by at least 257 (FTE) students, the Director of Finance shall revert to the General Fund by April 1, 2007, the total amount of enrollment funding associated with the total share of the enrollment goal that was not met."

Item 6610-001-0001—For support of California State University. I revise Provisions 7.5 and 13.

I am sustaining the $371,000 legislative augmentation for the full cost associated with supporting an additional 35 undergraduate nursing students. While the Administration supports increases in undergraduate nursing slots, enrollment growth funding from the higher marginal

cost included in the Budget Bill should be sufficient to support the intended expansion as it reflects average costs for both high and low cost programs. Therefore, I will not support additional costs for undergraduate enrollments in the future.

I am revising Provision 13. While I am sustaining the one-time legislative augmentation of $1,000,000 for faculty recruitment and start-up costs to prepare for the enrollment of 340 undergraduate nursing students in 2007-08, I object to the language that intends that these students be funded in 2007-08 at a higher level than would be provided with marginal cost growth funding. Similar to my concerns expressed above, I believe that the future costs associated with undergraduate nursing enrollments can be fully accommodated within the funding provided for enrollment growth under the Higher Education Compact.

I am revising Provision 13 to conform as follows:

"13. Of the amount provided in Schedule (1), $2,000,000 is appropriated on a one-time basis for startup costs associated with the expansion of nursing programs. Specifically, the Legislature intends that these funds be used to prepare for the enrollment in the 2007-08 academic year of 340 additional undergraduate full-time-equivalent nursing students above enrollment levels in the 2006-07 academic year. The Legislature intends that these additional nursing students be funded out of the California State University's enrollment funding for the 2007-08 academic year~~, with additional funding to be provided to recognize the higher costs imposed by nursing students~~."

Finally, I am revising Provision 7.5 to delete language that describes a new methodology for determining the marginal cost of each additional state-supported student in the future. The new formula is not transparent, is too difficult to either replicate or verify allowing for potential manipulation in future years, and does not properly reflect the full mix of new faculty associated with the system-wide growth in students.

I am revising Provision 7.5 to conform as follows:

"7.5. Of the amount appropriated in Schedule (1), $61,340,000 is to fund 8,490 additional state-supported full-time-equivalent students (FTES) at the California State University (CSU), based on a marginal General Fund cost of $7,225 per additional student. ~~This funding rate is based on a new methodology for determining the marginal cost of each additional state-supported student. This methodology calculates a total marginal cost (including operation and maintenance costs and faculty costs based on the salaries of recently hired professors) and then subtracts from this cost the fee revenue the university anticipates from each additional student (after adjusting for financial aid), in order to determine the amount of General Fund support needed from the state. It is the intent of the Legislature that enrollment growth funding provided to the university in subsequent budgets be based on this new methodology.~~ The Legislature expects CSU to enroll a total of 332,395 state-supported FTES during the 2006-07 academic year. This enrollment target does not include nonresident students and students enrolled in nonstate supported summer programs. The CSU shall provide a preliminary report to the Legislature by March 15, 2007, and a final report by May 1, 2007, on whether it has met the 2006-07 enrollment goal. For purposes of this provision, enrollment totals shall only include state-supported students. If CSU does not meet its total state-supported enrollment goal by at least 425 FTES, the Director of Finance shall revert to the General Fund

by May 15, 2007, the total amount of enrollment funding associated with the total share of the enrollment goal that was not met."

With the above deletions, revisions, and reductions, I hereby approve Assembly Bill 1811.

Schwarzenegger, Arnold

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

SECTION 1. Item 0250-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

0250-001-0001—For support of Judicial Branch.....		316,722,000
Schedule:		
(1) 10-Supreme Court.....	41,528,000	
(2) 20-Courts of Appeal.....	181,448,000	
(3) 30-Judicial Council.....	92,332,000	
(4) 35-Judicial Branch Facility Program.....	2,094,000	
(5) 50-Habeas Corpus Resource Center.....	12,842,000	
(6) Reimbursements.....	−4,311,000	
(7) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0250-001-0044).....	−160,000	
(8) Amount payable from the Court Interpreters' Fund (Item 0250-001-0327).....	−155,000	
(9) Amount payable from the Federal Trust Fund (Item 0250-001-0890).....	−3,046,000	
(10) Amount payable from the Appellate Court Trust Fund (Item 0250-001-3060).....	−5,850,000	

Provisions:

1. Notwithstanding Section 26.00, 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 prelitigation 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.

4. The funds appropriated by Schedule (5) shall be available for costs associated directly or indirectly with the California Habeas Corpus Resource Center (CHCRC). The CHCRC shall report to the Legislature and the Department of Finance on September 1, 2006, and April 1, 2007, 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 justices, and administrative costs pursuant to Section 68114.10 of the Government Code.
6. Of the amount appropriated in this item, $2,127,000 from the price increase for the court-appointed counsel budget is to provide funding for up to a $10 per hour increase in compensation at all three levels of appointed counsel.
7. Of the amount appropriated in this item, $870,000 shall be used to increase judicial salaries by 8.5 percent effective January 1, 2007.

SEC. 2. Item 0250-101-0932 of Section 2.00 of the Budget Act of 2006 is amended to read:

0250-101-0932—For local assistance, Judicial Branch, payable from the Trial Court Trust Fund..... 2,802,900,000
Schedule:
(1) 45.10-Support for Operation of the Trial Courts..... 2,426,937,000
(2) 45.25-Compensation of Superior Court Judges..... 247,955,000

(3) 45.35-Assigned Judges..... 22,824,000
(4) 45.45-Court Interpreters..... 96,126,000
(5) 45.55.060-Court Appointed Special Advocate (CASA) Program..... 2,148,000
(6) 45.55.065-Model Self-Help Program.... 929,000
(7) 45.55.090-Equal Access Fund Program..... 5,199,000
(8) 45.55.095-Family Law Information Centers..... 336,000
(9) 45.55.100-Civil Case Coordination..... 446,000

Provisions:

1. Notwithstanding Section 26.00, the funds appropriated or scheduled in this item may be allocated or reallocated among categories by the Judicial Council.
2. The funds appropriated in Schedule (2) shall be made available for costs of the workers' compensation program for trial court judges.
3. The amount appropriated in Schedule (3) shall be made available for all judicial assignments. Schedule (3) expenditures for necessary support staff may not exceed the staffing level that is necessary to support the equivalent of three judicial officers sitting on assignments.
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: 1.0 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 the 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 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. 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 consider appropriations, the chairperson 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.
6. 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 0250-115-0932 to provide adequate resources to the Judicial Branch Workers' Compensation Fund to pay workers' compensation claims for judicial branch employees and judges, and administrative costs pursuant to Section 68114.10 of the Government Code.
7. Of the funds appropriated in Schedule (1), which will be transferred to the Trial Court Improvement Fund in accordance with subdivision (b) of Section 77209 of the Government Code, up to $5,000,000 shall be available for support of services for self-represented litigants.
8. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall transfer up to $9,019,000 to Item 0250-001-0932 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts.

8.5. Upon approval by the Director of the Administrative Office of the Courts, and notification to the Department of Finance, the chairpersons of the committees in each house of the Legislature that consider appropriations and the State Budget, and the Chairperson of the Joint Legislative Budget Committee, the Controller shall additionally increase the amount of the transfer by an amount or amounts no more than $901,000. Any augmentations 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 consider appropriations, the chairpersons of the committees 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.

9. In order to improve equal access and the fair administration of justice, the funds appropriated in Schedule (7) are available for distribution by the Judicial Council through the Legal Services Trust Fund Commission to qualified legal services projects and support centers as defined in Sections 6213 to 6215, inclusive, 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. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall transfer up to 5 percent of the funding appropriated in Schedule (7) to Item 0250-001-0932 for administrative expenses. Ten percent of the funds remaining after administrative costs shall be for joint projects of courts and legal services programs to make legal assistance available to pro per litigants and 90 percent of the funds remaining after administrative costs shall be distributed consistent with Sections 6216 to 6223, inclusive, of the Business and Professions Code. The Judicial Council may establish additional reporting or quality control requirements consistent with Sections 6213 to 6223, inclusive, of the Business and Professions Code.
10. Of the funds appropriated in this item, $5,450,000 is provided for the costs of new judgeships and accompanying staff. Any funds not used for this purpose shall revert to the General Fund. The Judicial Council shall report to the Legislature on January 1, 2008, and annually thereafter, until all judgeships are appointed and new staff hired, on the amount of funds allocated to each trial court to fund the new portions.

11. Of the funds appropriated in Schedule (4), $10,000,000 is provided for services of court interpreters in civil actions and proceedings. In the event that sufficient funds are not available for all cases, or if, after diligent search, a sufficient number of interpreters is not available for all civil actions and proceedings, priority shall be given as follows, provided, however, that this case priority shall not be construed to negate or limit any right to an interpreter in a civil action or proceeding otherwise provided by state or federal law: (a) Parties appearing in forma pauperis or whom the court otherwise determines are financially unable to pay the cost of an interpreter with priority given to actions and proceedings relating to domestic violence, child custody, protective orders, unlawful detainer, elder and dependent abuse, guardians and conservators, and family law; (b) Parties appearing in propria persona with priority given to actions and proceedings relating to domestic violence, child custody, protective orders, unlawful detainer, elder and dependent abuse, guardians and conservators, and family law; and (c) actions and proceedings in small claims court, notwithstanding Section 116.550 of the Code of Civil Procedure. Any unspent funds, shall revert to the General Fund.
12. Of the funds appropriated in this item, $13,796,000 shall be used to increase judicial salaries by 8.5 percent effective January 1, 2007.

SEC. 3. Item 0250-111-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

0250-111-0001—For transfer by the Controller to the Trial Court Trust Fund..... 1,612,357,000

SEC. 4. Item 0520-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

0520-001-0001—For support of Secretary of Business, Transportation and Housing, for payment to Item 0520-001-0044, payable from the General Fund..... 11,421,000

Provisions:

1. Of the amount appropriated in this item, $7,300,000 shall be available for use by the California Travel and Tourism Commission for use in promoting California tourism to potential visitors.
2. Of the amount appropriated in this item, $2,500,000 is allocated to administer the California Partnership for the San Joaquin Valley (Partnership). No funds shall be expended for this purpose until the Partnership adopts the Strategic Action Proposal and submits to the Joint Legislative Budget Committee, at least 30 days prior to expenditure, a report detailing the governance and organizational structure for the Partnership.

SEC. 5. Item 0520-001-0044 of Section 2.00 of the Budget Act of 2006 is amended to read:

0520-001-0044—For support of Secretary for Business, Transportation and Housing, payable from the Motor Vehicle Account, State Transportation Fund..... 1,171,000

Schedule:

(1)	10-Administration of Business, Transportation and Housing Agency.....	3,037,000
(2)	25-Infrastructure Finance and Economic Development Program.....	16,359,000
(3)	Reimbursements.....	−2,973,000
(4)	Amount payable from the General Fund (Item 0520-001-0001).....	−11,421,000
(5)	Amount payable from the California Infrastructure and Economic Development Bank Fund (Item 0520-001-0649).....	−3,067,000
(6)	Amount payable from the Small Business Expansion Fund (Item 0520-001-0918).....	−420,000
(7)	Amount payable from the Welcome Center Fund (Item 0520-001-3083).....	−56,000
(8)	Amount payable from the Film Promotion and Marketing Fund (Item 0520-001-3095).....	−10,000
(9)	Amount payable from the Chrome Plating Pollution Prevention Fund (Item 0520-001-9329).....	−278,000

Provisions:

1. Of the amount appropriated in Schedule (2), $85,000 is for reimbursement of the Department of Toxic Substances Control for expansion of the Model Shop Program pursuant to Chapter 2 (commencing with Section 42100) of Part 3 of Division 30 of the Public Resources Code.

SEC. 6. Item 0520-101-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

0520-101-0001—For local assistance, Secretary of Business, Transportation and Housing..... 2,500,000

Schedule:

(1) 25-Infrastructure Finance and Economic Development Program..... 4,500,000

(2) Reimbursements..... – 2,000,000

Provisions:

1. Of the amount appropriated in this item, $2,500,000 is allocated to establish a competitive grant program to be administered by the California Partnership for the San Joaquin Valley (Partnership). No funds shall be expended for this purpose until the Partnership adopts the Strategic Action Proposal and submits to the Joint Legislative Budget Committee, at least 30 days prior to expenditure, a report detailing the governance and organizational structure for the Partnership.

SEC. 7. Item 0690-102-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

0690-102-0001—For local assistance, Office of Emergency Services..... 56,699,000

Schedule:

(1.5) 50.20-Victim Services..... 9,317,000

(2.5) 50.30-Public Safety..... 52,953,000

(18) Reimbursements..... –5,571,000

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 program objectives, the Office of Emergency Services shall require all grantees of 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.
3. Of the amount appropriated in Schedule (2.5), $800,000 shall be provided for grants to counties, consistent with the Central Coast Rural Crime Prevention Program as established in Chapter 18 of the Statutes of 2003. The funds shall be distributed only to counties for planning, or for implementation of the program in those counties that have completed the planning process, consistent with Chapter 18 of the Statutes of 2003. In no case shall a grant exceed $300,000.
4. The Department of Finance shall include a special display table in the Governor's Budget under the Office of Emergency Services that displays, by fund source, component level detail for Program 50, Criminal Justice Projects. In addition, the Office of Emergency Services, in consultation with the Department of Finance, shall provide a report to the Joint Legislative Budget Committee by January 10 of each year that provides a list of grantees, total funds awarded to each grantee, and performance statistics to document program outputs and outcomes in order to assess the state's return on investment for each component of Program 50 for each of the three years displayed in the Governor's Budget.
6. Of the amount appropriated in this item, the Department of Finance may authorize the transfer of up to 5 percent (up to $995,000) of the augmentation for the California Multijurisdictional Methamphetamine Enforcement Teams Program to Item 0690-001-0001 for

the purpose of conducting an independent evaluation of the program.

7. Of the funding appropriated in this item, $29,400,000 is for local assistance to support the California Multi-jurisdictional Methamphetamine Enforcement Teams Program. $19,900,000 of this funding is provided on a two-year, limited-term basis. No later than January 10, 2008, the Office of Emergency Services, in consultation with the Department of Finance, shall submit to the Joint Legislative Budget Committee a report that proposes a funding allocation plan that links grant funding to the size of the problem in each of the five state-designated regions. The report shall also include a summary of spending by region, program activities, and demonstrated outcomes such as lab seizures and arrests.
8. Of the amount appropriated in this item, $400,000 shall be available for grants to any private nonprofit organizations that have previously received funding from the California Innocence Protection Program. Any entity receiving funding under this program shall provide detailed expenditure reports semiannually and annually on the use of funds provided under this program. The Office of Emergency Services shall prepare and submit a report to the Joint Legislative Budget Committee on or before June 30, 2007, on the foregoing information for each entity receiving funding under this program.
9. Of the amount appropriated in Schedule (2.5), $8,000,000 is in augmentation of the Vertical Prosecution Block Grants for a total program of $16,176,000.

SEC. 8. Item 2640-101-0046 of Section 2.00 of the Budget Act of 2006 is amended to read:

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..... 629,815,000

Provisions:

1. Notwithstanding Sections 99313 and 99314 of the Public Utilities Code, not more than $67,387 of the

amount appropriated in this item shall reimburse the Controller for expenditures for administration of state transportation assistance funds.

SEC. 9. Item 2660-001-0042 of Section 2.00 of the Budget Act of 2006 is amended to read:

2660-001-0042—For support of Department of Transportation, payable from the State Highway Account, State Transportation Fund..... 2,322,131,000
Schedule:
(1) 10-Aeronautics..... 3,154,000
(2) 20.10-Highway Transportation—Capital Outlay Support..... 1,394,844,000
(3) 20.30-Highway Transportation— Local Assistance..... 35,779,000
(4) 20.40-Highway Transportation— Program Development..... 71,768,000
(5) 20.65-Highway Transportation— Legal..... 75,599,000
(6) 20.70-Highway Transportation— Operations..... 183,867,000
(7) 20.80-Highway Transportation— Maintenance..... 967,664,000
(8) 30-Mass Transportation..... 112,144,000
(9) 40-Transportation Planning..... 94,063,000
(10) 50.00-Administration..... 326,613,000
(11) 60.10-Equipment Service Program Costs..... 173,266,000
(11.5) 60.20-Distributed Equipment Service Program Costs..... −173,266,000
(12) Reimbursements..... −245,163,000
(13) Amount payable from the Aeronautics Account, State Transportation Fund (Item 2660-001-0041)..... −3,118,000
(14) Amount payable from the Bicycle Transportation Account, State Transportation Fund (Item 2660-001-0045)..... −44,000
(15) Amount payable from the Public Transportation Account, State Transportation Fund (Item 2660-001-0046)..... −131,201,000

(16) Amount payable from the Historic Property Maintenance Fund (Item 2660-001-0365)..... −1,507,000
(17) Amount payable from the Federal Trust Fund (Item 2660-001-0890).... −547,224,000
(18) Amount payable from the Transportation Financing Subaccount, State Highway Account, State Transportation Fund (Item 2660-001-6801)..... −15,107,000

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 of both houses of the Legislature 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 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 chairpersons of the committees in each house of the Legislature that consider 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 Finance, all or part of the savings to Item 2660-101-0042, 2660-301-0042, 2660-302-0042, or 2660-303-0042 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 chairpersons of the committees in each house of the Legislature that consider 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. 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.
6. 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 of Transportation 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.
7. Of the funds appropriated in Schedule (7), $588,000 is for the maintenance of the new Route 125 toll road

in San Diego County. This full amount shall not be available for expenditure until the Department of Transportation has entered into a contract with the contractor for the year in which funds are to be expended.

8. (a) Notwithstanding any other provision of law, funds appropriated in Item 2660-001-0042, 50.00-Administration from the State Highway Account may be reduced and replaced by an equivalent amount of Reimbursements funds determined by the Department of Transportation to be available and necessary to comply with Section 28.50 and the most effective management of state transportation resources. The Reimbursements Account may also be reduced and replaced by an equivalent amount of funds from the State Highway Account. Not more than 30 days after replacing the State Highway Account funds with Reimbursements funds and vice versa, the Director of Finance shall notify in writing the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee of this action.

   (b) To the extent that funds in the State Highway Account and Reimbursements 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 Finance, all or part of the savings to Item 2660-101-0042 for local assistance to Item 2660-301-0042 or 2660-302-0042 for 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 chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee.

9. Of the funds appropriated in Schedule (11), it is the intent of the Legislature that the Equipment Service Fund be abolished as of June 30, 2006. All encum-

brances as of June 30, 2006, will become liabilities of the State Highway Account.

10. Not more than $1,400,000 appropriated in this item is available for support of the Department of Transportation's Owner Controlled Insurance Program to administer insurance coverage for contractors on projects with combined total costs not to exceed $750,000,000.
11. Of the funds appropriated in this item, $76,000,000 is for major maintenance contracts for the preservation of highway pavement and shall not be used to supplant any other funding that would have been used for major pavement maintenance.
12. Of the funds appropriated in Schedule (5), $48,600,000 is for the payment of tort lawsuit claims and awards. Any funds for that purpose that are unencumbered as of April 1, 2007, may be transferred to Item 2660-302-0042. Any transfer shall require the prior approval of the Department of Finance.
13. Of the funds appropriated in Schedule (2), $19,600,000 is for capital outlay support costs that would be added due to the passage of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 on the November 7, 2006, ballot. This amount shall not be available for expenditure until after November 7, 2006, and shall only be available if the voters approve the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.
14. Notwithstanding Section 63048.65 of the Government Code, if no bonds are issued pursuant to that section by June 15, 2007, the Director of Finance shall transfer $10,000,000 of the funds in the Special Deposit Fund described in that section to the Traffic Congestion Relief Fund. The director shall then transfer the amount of $10,000,000 from the Traffic Congestion Relief Fund to the Public Transportation Account for partial repayment of loans authorized by Section 14556.8 of the Government Code.

SEC. 10. Item 3600-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

3600-001-0001—For support of Department of Fish and Game 101,813,000

Schedule:

(1)	20-Biodiversity Conservation Program	181,265,000
(2)	25-Hunting, Fishing and Public Use	58,396,000
(3)	30-Management of Department Lands and Facilities	67,020,000
(4)	40-Conservation Education and Enforcement	53,841,000
(5)	50-Spill Prevention and Response	30,557,000
(6)	70.01-Administration	35,511,000
(7)	70.02-Distributed Administration	−35,511,000
(8)	Reimbursements	−64,689,000
(9)	Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3600-001-0005)	−984,000
(10)	Amount payable from the California Environmental License Plate Fund (Item 3600-001-0140)	−15,565,000
(11)	Amount payable from the Fish and Game Preservation Fund (Item 3600-001-0200)	−94,648,000
(12)	Amount payable from the Fish and Wildlife Pollution Account (Item 3600-001-0207)	−2,586,000
(13)	Amount payable from the California Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund (Item 3600-001-0211)	−225,000
(14)	Amount payable from the Exotic Species Control Fund (Item 3600-001-0212)	−1,233,000
(15)	Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3600-001-0235)	−2,665,000
(16)	Amount payable from the Oil Spill Prevention and Administration Fund (Item 3600-001-0320)	−22,279,000
(17)	Amount payable from the Environmental Enhancement Fund (Item 3600-001-0322)	−338,000

(18) Amount payable from the Central Valley Project Improvement Subaccount (Item 3600-001-0404)..... −55,000
(20) Amount payable from the Federal Trust Fund (Item 3600-001-0890)..... −56,218,000
(21) Amount payable from the Special Deposit Fund (Item 3600-001-0942)..... −608,000
(21.5) Amount payable from the Hatchery and Inland Fisheries Fund (Item 3600-001-3103)..... −17,039,000
(22) Amount payable from the Interim Water Supply and Water Quality Infrastructure and Management Subaccount (Item 3600-001-6027)..... −750,000
(23) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3600-001-6031)..... −6,769,000
(24) Amount payable from the Salton Sea Restoration Fund (Item 3600-001-8018)..... −2,615,000

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 Schedules (8) and (20). The funds appropriated in 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.

   Reimbursements received under Schedules (8) and (20) shall be used in repayment of any funds used to meet current obligations pursuant to this provision.
2. Of the amount appropriated in Schedule (3), $95,000 from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund and $622,000 in reimbursements shall be available for fire prevention projects until June 30, 2007.
8. Of the funds appropriated in this item, at least $3,470,000 shall be available for implementation of the Marine Life Protection Act.

9. Of the funds appropriated in this item, $2,000,000 shall be available for expenditure until June 30, 2009, for implementation of the Marine Life Protection Act and the Marine Life Management Act.

14. Contingent upon the receipt of $150,000 by the Department of Fish and Game from the San Francisco Public Utilities Commission, that same sum is hereby appropriated to the Department of Fish and Game for use during the 2006–07 fiscal year for associated wages, benefits, operating expenses, equipment, and department overhead associated with a full-time person-year, or equivalent, of an environmental scientist, dedicated to the planning, review, and permitting of projects related to the San Francisco Public Utilities Commission Water System Improvement Program.

15. Of the funds appropriated in this item, at least $8,000,000 is available for expenditure for the Fisheries Restoration Grant Program consistent with Section 6271.1 of the Public Resources Code and $6,000,000 is available for expenditure on restoration projects on the Klamath River system until June 30, 2009. The department may transfer funds between the Fisheries Restoration Grant Program and the Klamath River if additional funds are needed to maximize federal funds. This transfer shall occur no sooner than 30 days after written notification is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee. Projects on the Klamath River system may also apply for grants under the Fisheries Restoration Grant Program. Of the $6,000,000 allocated for the Klamath River system, $500,000 is available to the State Coastal Conservancy for a study on fish passage impediments on the Klamath River and its tributaries, including the removal of dams.

16. Of the funds appropriated in this item, $10,000,000 is available for expenditure for public trust nongame fish and wildlife activities, including $900,000 for invasive weed control on state-owned lands until June 30, 2009. Of this amount, up to $1,500,000 may be made available to carry out Section 1507 of the Fish and Game Code relating to mosquito production control and the

West Nile Virus. Projects undertaken to implement Section 1507 of the Fish and Game Code are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code. The Department of Fish and Game may contract with a Mosquito and Vector District, a Resource Conservation district, or a nonprofit organization to accomplish these projects.

17. Notwithstanding any other provision of law, the Department of Finance may adjust this item of appropriation to correct any technical errors related to the California Bay-Delta Authority reorganization plan, enacted as part of this Budget Act, not sooner than 30 days after written notification of the necessity therefor to the chairpersons of the committees in each house of the Legislature that consider 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.
18. Notwithstanding any other provision of law, the Department of Finance may augment this item to provide authority to spend funds encumbered prior to the 2006–07 fiscal year by the California Bay-Delta Authority for the ongoing support of the CALFED Bay-Delta Program not sooner than 30 days after written notification of the necessity therefor to the chairpersons of the committees in each house of the Legislature that consider 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.
19. Of the funds appropriated in this item, at least $5,000,000 is available for implementation of bottom trawling regulation, aquaculture regulations, the Marine Life Protection Act, and the Marine Life Management Act.

SEC. 11. Item 3790-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

3790-001-0001—For support of Department of Parks and Recreation..... 377,959,000

Schedule:

(1) For support of the Department of Parks and Recreation..... 605,378,000

(2) Reimbursements..... −31,060,000

(3) Less funding provided by capital outlay..... −4,000,000

(4) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3790-001-0005)..... −7,128,000

(5) Amount payable from the California Environmental License Plate Fund (Item 3790-001-0140)..... −2,808,000

(6) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3790-001-0235)..... −10,078,000

(7) Amount payable from the Off-Highway Vehicle Trust Fund (Item 3790-001-0263)..... −40,158,000

(8) Amount payable from the State Parks and Recreation Fund (Item 3790-001-0392)..... −121,173,000

(9) Amount payable from the Winter Recreation Fund (Item 3790-001-0449)..... −357,000

(10) Amount payable from the Harbors and Watercraft Revolving Fund (Item 3790-001-0516)..... −712,000

(11) Amount payable from the Federal Trust Fund (Item 3790-001-0890)..... −3,772,000

(12) Amount payable from the California Main Street Program Fund (Item 3790-001-3077)..... −175,000

(13) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3790-001-6029)..... −5,527,000

(14) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3790-001-6031)..... −471,000

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 3.7 percent of each project's appropriation, except to the extent otherwise restricted by law, to allow the department to administer its grants. Such funds shall be available for encumbrance or expenditure until June 30, 2012.
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 should also be reflected in the department's state operations budget in the Governor's Budget as a special item of expense reflecting the funding provided from the capital outlay appropriations.
3. $250,000,000 of the funds appropriated in this item shall be available for encumbrance until June 30, 2012.
4. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in this item for capital outlay projects not sooner than 30 days after written notification is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee. The written notification shall provide a description of each capital outlay project, the need for the project, and the cost and phase for which approval is requested. The total of these expenditures may not exceed $250,000,000.
5. Of the funds appropriated in this item, not less than $15,000,000 shall be available for operations and maintenance needs at new and existing facilities, including seasonal aquatic safety staffing at state beaches.

6. Of the funds appropriated in this item, $563,000 shall be transferred to the Secretary of State for building maintenance of the California State Archives Building.

SEC. 12. Item 3820-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

3820-001-0001—For support of San Francisco Bay Conservation and Development Commission		4,230,000
Schedule:		
(1) 10-Bay Conservation and Development	5,103,000	
(2) Reimbursements	−678,000	
(3) Amount payable from the Bay Fill Clean-up and Abatement Fund (Item 3820-001-0914)	−195,000	

SEC. 13. Item 3860-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

3860-001-0001—For support of Department of Water Resources		63,354,000
Schedule:		
(1) 10-Continuing Formulation of the California Water Plan	129,658,000	
(2) 20-Implementation of the State Water Resources Development System	5,184,000	
(3) 30-Public Safety and Prevention of Damage	79,246,000	
(4) 40-Services	8,729,000	
(5) 45-California Energy Resources Scheduling (CERS)	21,076,000	
(6) 50.01-Management and Administration	63,700,000	
(7) 50.02-Distributed Management and Administration	−63,700,000	
(8) Reimbursements	−24,899,000	
(9) Amount payable from the California Environmental License Plate Fund (Item 3860-001-0140)	−269,000	
(10) Amount payable from the Central Valley Project Improvement Subaccount (Item 3860-001-0404)	−1,575,000	

(11) Amount payable from the Feasibility Projects Subaccount (Item 3860-001-0445)..... −114,000
(12) Amount payable from the Water Conservation and Groundwater Recharge Subaccount (Item 3860-001-0446)..... −125,000
(13) Amount payable from the Energy Resources Programs Account (Item 3860-001-0465)..... −1,941,000
(14) Amount payable from the Local Projects Subaccount (Item 3860-001-0543)..... −101,000
(15) Amount payable from the Sacramento Valley Water Management and Habitat Protection Subaccount (Item 3860-001-0544)..... −60,000
(16) Amount payable from the 1986 Water Conservation and Water Quality Bond Fund (Item 3860-001-0744)..... −195,000
(17) Amount payable from the Federal Trust Fund (Item 3860-001-0890)..... −12,546,000
(18) Amount payable from the Dam Safety Fund (Item 3860-001-3057)..... −9,128,000
(19) Amount payable from the Electric Power Fund (Item 3860-001-3100).... −21,076,000
(20) Amount payable from the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund (Item 3860-001-6001)..... −988,000
(21) Amount payable from the Flood Protection Corridor Subaccount (Item 3860-001-6005)..... −460,000
(22) Amount payable from the Urban Stream Restoration Subaccount (Item 3860-001-6007)..... −609,000
(23) Amount payable from the Yuba Feather Flood Protection Subaccount (Item 3860-001-6010)..... −703,000
(24) Amount payable from the Water Conservation Account (Item 3860-001-6023)..... −789,000

(25) Amount payable from the Conjunctive Use Subaccount (Item 3860-001-6025)..... −1,316,000
(26) Amount payable from the Bay-Delta Multipurpose Water Management Subaccount (Item 3860-001-6026)..... −22,479,000
(27) Amount payable from the Interim Water Supply and Water Quality Infrastructure and Management Subaccount (Item 3860-001-6027)..... −1,446,000
(28) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3860-001-6031)..... −79,720,000

Provisions:

1. The amounts appropriated in Items 3860-001-0001 to 3860-001-6031, inclusive, shall be transferred to the Water Resources Revolving Fund (0691) for direct expenditure in such amounts as the Department of Finance may authorize, including cooperative work with other agencies.
2. Funds appropriated in Schedule 3(a) shall be available for encumbrance by the Department of Water Resources until June 30, 2009, and available for liquidation until June 30, 2011.
3. Of the funds appropriated in this item, $250,000 for Sacramento Bypass Levee repair shall be available for encumbrance until June 30, 2009, and available for liquidation until June 30, 2011.
4. Notwithstanding any other provision of law, the Department of Finance may adjust this item of appropriation to correct any technical errors related to the California Bay-Delta Authority reorganization plan, enacted as part of this Budget Act, not sooner than 30 days after written notification of the necessity therefor to the chairpersons of the committees in each house of the Legislature that consider 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.
5. Notwithstanding any other provision of law, the Department of Finance may augment this item to provide

authority to spend funds encumbered prior to the 2006–07 fiscal year by the California Bay-Delta Authority for the ongoing support of the CALFED Bay-Delta Program not sooner than 30 days after written notification of the necessity therefor to the chairpersons of the committees in each house of the Legislature that consider 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.

SEC. 14. Item 3900-001-0044 of Section 2.00 of the Budget Act of 2006 is amended to read:

3900-001-0044—For support of State Air Resources Board, payable from the Motor Vehicle Account, State Transportation Fund		160,579,000
Schedule:		
(1) 15-Mobile Source	272,255,000	
(2) 25-Stationary Source	51,210,000	
(3) 30.01-Program Direction and Support	11,074,000	
(4) 30.02-Distributed Program Direction and Support	−11,074,000	
(5) Reimbursements	−4,690,000	
(6) Amount payable from the General Fund (Item 3900-001-0001)	−2,280,000	
(7) Amount payable from the Air Pollution Control Fund (Item 3900-001-0115)	−128,133,000	
(8) Amount payable from the Vehicle Inspection and Repair Fund (Item 3900-001-0421)	−12,530,000	
(9) Amount payable from the Air Toxics Inventory and Assessment Account (Item 3900-001-0434)	−862,000	
(10) Amount payable from the Federal Trust Fund (Item 3900-001-0890)	−12,892,000	
(11) Amount payable from the Non-Toxic Dry Cleaning Incentive Trust Fund (Item 3900-001-3070)	−1,499,000	

Provisions:

2. Of the funds appropriated in this item, $25,000,000 shall be available for grants to public agencies to purchase low-polluting construction equipment if the Transportation and Air Quality Bond is passed by the voters at the November 4, 2006, general election; otherwise, these funds are allocated for replacement of pre-1977 model-year schoolbuses.
5. Of the funds appropriated pursuant to this item, $6,500,000 shall be expended pursuant to Section 7 of Chapter 91 of the Statutes of 2005. Notwithstanding subdivision (a) of Section 1.80 of this act, these funds are available for expenditure until June 30, 2009.
6. $25,000,000 shall be expended in the budget year pursuant to an expenditure plan jointly developed by the State Air Resources Board and the Energy Conservation Resources and Development Commission for all of the following purposes:
   (a) Market-based incentives such as buydowns, rebates, credits, or other incentives for purchasers of high efficiency, high mileage, clean alternative fuel light, medium, and heavy duty vehicles, both individual and public fleet, in California.
   (b) Production incentives such as loans, loan guarantees, and credits for clean alternative fuel production in California.
   (c) Market-based incentives such as loans and loan guarantees for the construction of publicly accessible, clean alternative fuel refueling stations, including refueling stations that sell ethanol blends consisting of at least 85 percent ethanol ("E-85"), sufficient in number to match the existing and anticipated supply of E-85 vehicles in California.
   (d) Grants for research and development of clean and zero emission fuels and vehicle technology to assist in making those technologies affordable in the marketplace.
   (e) Incentives to replace the current state vehicle fleet with clean, high mileage alternative fuel vehicles.
7. None of the funds appropriated pursuant to Provision 6 shall be used for incentives, grants, or any other form of state support for the development of fuels derived from petroleum, petroleum coke, or coal.

8. In approving the funding and positions pursuant to this item, it is the intent of the Legislature to ensure that the specific measures to reduce air pollution and greenhouse gas emissions be undertaken and completed by the State Air Resources Board in the fiscal year. Accordingly, the board shall submit quarterly reports on the expenditure of these funds, and the status of the development and adoption of the measures.
9. On and after the effective date of this item, the State Air Resources Board may expend funds appropriated for preliminary analysis and planning work to implement the emissions inventory, and to begin development of a mandatory emissions reporting system.

SEC. 15. Item 3940-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

3940-001-0001—For support of State Water Resources Control Board		35,866,000
Schedule:		
(1) 10-Water Quality	435,962,000	
(2) 20-Water Rights	13,288,000	
(3) 30.01-Administration	17,222,000	
(4) 30.02-Distributed Administration	−17,222,000	
(5) Reimbursements	−9,999,000	
(6) Amount payable from the Unified Program Account (Item 3940-001-0028)	−522,000	
(7) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-0193)	−63,979,000	
(8) Amount payable from the Marine Invasive Species Control Fund (Item 3940-001-0212)	−79,000	
(9) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3940-001-0235)	−2,202,000	
(10) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 3940-001-0387)	−5,649,000	

(11) Amount payable from the State Revolving Fund Loan Subaccount (Item 3940-001-0417)..... −538,000
(12) Amount payable from the Water Recycling Subaccount (Item 3940-001-0419)..... −153,000
(13) Amount payable from the Drainage Management Subaccount (Item 3940-001-0422)..... −515,000
(14) Amount payable from the Seawater Intrusion Control Subaccount (Item 3940-001-0424)..... −39,000
(15) Amount payable from the Underground Storage Tank Tester Account (Item 3940-001-0436)..... −63,000
(16) Amount payable from the Underground Storage Tank Cleanup Fund (Item 3940-001-0439)..... −272,237,000
(17) Amount payable from the Surface Impoundment Assessment Account (Item 3940-001-0482)..... −198,000
(18) Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-0740)..... −321,000
(19) Amount payable from the Federal Trust Fund (Item 3940-001-0890)..... −35,036,000
(20) Amount payable from the Water Rights Fund (Item 3940-001-3058).... −11,741,000
(21) Amount payable from the Watershed Protection Subaccount (Item 3940-001-6013)..... −1,069,000
(22) Amount payable from the Santa Ana River Watershed Subaccount (Item 3940-001-6016)..... −1,062,000
(23) Amount payable from the Lake Elsinore and San Jacinto Watershed Subaccount (Item 3940-001-6017)..... −47,000
(24) Amount payable from the Nonpoint Source Pollution Control Subaccount (Item 3940-001-6019)..... −1,238,000
(25) Amount payable from the State Revolving Fund Loan Subaccount (Item 3940-001-6020)..... −81,000

(26) Amount payable from the Wastewater Construction Grant Subaccount (Item 3940-001-6021)..... −23,000
(27) Amount payable from the Coastal Nonpoint Source Control Subaccount (Item 3940-001-6022)..... −1,076,000
(28) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3940-001-6031)..... −4,620,000
(29) Amount payable from the Petroleum Underground Storage Tank Financing Account (Item 3940-001-8026)..... −897,000

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.
2. Notwithstanding any other provision of law, the Department of Finance may adjust this item of appropriation to correct any technical errors related to the California Bay-Delta Authority reorganization plan, enacted as part of this budget act, not sooner than 30 days after written notification of the necessity therefor to the chairpersons of the committees in each house of the Legislature that consider 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, the Department of Finance may augment this item to provide authority to spend funds encumbered prior to the 2006–07 fiscal year by the California Bay-Delta Authority for the ongoing support of the CALFED Bay-Delta Program not sooner than 30 days after written notification of the necessity therefor to the chairpersons of the committees in each house of the Legislature that consider 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.

SEC. 16. Item 3940-001-0193 of Section 2.00 of the Budget Act of 2006 is amended to read:

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..... 63,979,000

SEC. 17. Item 3940-001-3058 of Section 2.00 of the Budget Act of 2006 is amended to read:

3940-001-3058—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Water Rights Fund..... 11,741,000

SEC. 18. Item 3960-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

3960-001-0001—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014..... 28,189,000

Provisions:

1. The Director of Toxic Substances Control may expend from this item: (a) $9,093,000 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) $6,562,000 for the operation of the Illegal Drug Laboratory Removal Program.
2. Notwithstanding any other provision of law, 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.

4. The amount appropriated in this item includes $5,475,000 for emergency response activities at the BKK Landfill. This appropriation is subject to the condition that, to the extent that funds are expended for purposes for which any private or public entity is or may be held financially liable, the Department of Toxic Substances Control shall take all reasonable actions to recover the amount of that expenditure from one or more of those entities, and that the amounts so recovered be paid to the General Fund in reimbursement of the amount of that expenditure. Additionally, those recovered funds shall be spent before funds from the General Fund, consistent with the language in any settlement agreements between the department and the potentially responsible parties.
5. As of June 30, 2007, or earlier, any unspent funds in Provision 4 shall revert to the General Fund if the Director of Toxic Substances Control and the Director of Finance agree that sufficient funds have been provided by the other potentially responsible parties.
6. The Director of Toxic Substances Control shall send a letter notifying the chairpersons of the fiscal committees of each house of the Legislature that act on the department's budget and the Legislative Analyst's Office within 30 days of receiving any moneys from potentially responsible parties for the BKK Landfill.

SEC. 19. Item 3960-001-0014 of Section 2.00 of the Budget Act of 2006 is amended to read:

3960-001-0014—For support of Department of Toxic Substances Control, payable from the Hazardous Waste Control Account	49,725,000
Schedule:	
(1) 12-Site Mitigation and Brownfields Reuse	80,303,000
(2) 13-Hazardous Waste Management	64,181,000
(3) 19.01-Administration	30,464,000
(4) 19.02-Distributed Administration	–30,464,000

(5) 20-Science, Pollution Prevention and Technology..... 10,148,000
(6) 21-State as Certified Unified Program..... 1,156,000
(7) Reimbursements..... −10,136,000
(8) Amount payable from General Fund (Item 3960-001-0001)..... −28,189,000
(9) Amount payable from Unified Program Account (Item 3960-001-0028)..... −986,000
(10) Amount payable from Illegal Drug Lab Cleanup Account (Item 3960-001-0065)..... −2,034,000
(11) Amount payable from California Used Oil Recycling Fund (Item 3960-001-0100)..... −359,000
(12) Amount payable from Toxic Substances Control Account (Item 3960-001-0557)..... −34,037,000
(13) Amount payable from Federal Trust Fund (Item 3960-001-0890)..... −26,258,000
(14) Amount payable from Environmental Quality Assessment Fund (Item 3960-001-3035)..... −681,000
(15) Amount payable from Electronic Waste Recovery and Recycling Account (Item 3960-001-3065)..... −2,227,000
(16) Amount payable from State Certified Unified Program Agency Account (Item 3960-001-3084)..... −1,156,000

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 cashflow 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.

SEC. 20. Item 3960-001-0557 of Section 2.00 of the Budget Act of 2006 is amended to read:

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..... 34,037,000

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 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.

SEC. 21. Item 4120-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

4120-001-0001—For support of Emergency Medical Services Authority..... 19,291,000

Schedule:

(1)	10-Emergency Medical Services Authority.....	28,783,000
(2)	Reimbursements.....	−6,000,000
(3)	Amount payable from the Emergency Medical Services Training Program Approval Fund (Item 4120-001-0194).....	−377,000
(4)	Amount payable from the Emergency Medical Services Personnel Fund (Item 4120-001-0312).....	−1,431,000
(5)	Amount payable from the Federal Trust Fund (Item 4120-001-0890).....	−1,684,000

Provisions:

1. In order to ensure the protection of the public health, it is the Legislature's intent that all products and services to establish mobile field hospitals be procured or ordered by September 1, 2006. Notwithstanding any other provision of law, if the Director of the Emergency Medical Services Authority and the Director of General Services determine that utilizing the state's standard procurement practices related to the $18,297,000 appropriated in this item for mobile field hospitals will result in the state's inability to meet the September 1, 2006, date, each procurement that is determined to be delayed shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 22. Item 4260-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

4260-001-0001—For support of Department of Health Services		213,925,500
Schedule:		
(1) 10-Public and Environmental Health	326,444,000	
(2) 20-Health Care Services	663,844,000	
(3) 30.01-Administration	54,372,000	
(4) 30.02-Distributed Administration	–51,890,000	
(5) Reimbursements	–39,300,000	
(6) Amount payable from the Breast Cancer Research Account (Item 4260-001-0007)	–1,464,000	
(7) Amount payable from the Breast Cancer Control Account (Item 4260-001-0009)	–8,098,000	
(8) Amount payable from the Nuclear Planning Assessment Special Account (Item 4260-001-0029)	–813,000	
(9) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 4260-001-0044)	–1,249,000	
(10) Amount payable from the Sale of Tobacco to Minors Control Account (Item 4260-001-0066)	–2,300,000	

(11) Amount payable from the Occupational Lead Poisoning Prevention Account (Item 4260-001-0070)..... −2,750,000
(12) Amount payable from the Medical Waste Management Fund (Item 4260-001-0074)..... −1,943,000
(13) Amount payable from the Radiation Control Fund (Item 4260-001-0075)..... −19,820,000
(14) Amount payable from the Tissue Bank License Fund (Item 4260-001-0076).... −282,000
(15) Amount payable from the Childhood Lead Poisoning Prevention Fund (Item 4260-001-0080)..... −9,135,000
(16) Amount payable from the Export Document Program Fund (Item 4260-001-0082)..... −387,000
(17) Amount payable from the Clinical Laboratory Improvement Fund (Item 4260-001-0098)..... −5,134,000
(18) Amount payable from the Health Statistics Special Fund (Item 4260-001-0099)..... −26,837,000
(19) Amount payable from the Wine Safety Fund (Item 4260-001-0116)..... −56,000
(20) Amount payable from the Water Device Certification Special Account (Item 4260-001-0129)..... −208,000
(21) Amount payable from the Food Safety Fund (Item 4260-001-0177)..... −5,793,000
(22) Amount payable from the Environmental Laboratory Improvement Fund (Item 4260-001-0179)..... −2,975,000
(23) Amount payable from the Genetic Disease Testing Fund (Item 4260-001-0203)..... −92,871,000
(24) Amount payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-0231)..... −8,281,000

(25) Amount payable from the Research Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-0234)..... −5,372,000
(26) Amount payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-0236)..... −4,578,000
(27) Amount payable from the Drinking Water Operator Certification Special Account (Item 4260-001-0247)..... −1,317,000
(28) Amount payable from the Nursing Home Administrator's State License Examining Fund (Item 4260-001-0260)..... −491,000
(29) Amount payable from the Infant Botulism Treatment and Prevention Fund (Item 4260-001-0272)..... −3,053,000
(30) Amount payable from the Safe Drinking Water Account (Item 4260-001-0306)..... −10,162,000
(31) Amount payable from the Registered Environmental Health Specialist Fund (Item 4260-001-0335)..... −269,000
(32) Amount payable from the Mosquito-borne Disease Surveillance Account (Item 4260-001-0478)..... −45,000
(33) Amount payable from the Drinking Water Treatment and Research Fund (Item 4260-001-0622)..... −637,000
(34) Amount payable from the Domestic Violence Training and Education Fund (Item 4260-001-0642)..... −852,000
(35) Amount payable from the California Alzheimer's Disease and Related Disorders Research Fund (Item 4260-001-0823)..... −888,000
(36) Amount payable from the Federal Trust Fund (Item 4260-001-0890).... −447,328,500
(37) Amount payable from the Drug and Device Safety Fund (Item 4260-001-3018)..... −3,178,000

(38) Amount payable from the Medical Marijuana Program Fund (Item 4260-001-3074)..... −855,000
(39) Amount payable from the Cannery Inspection Fund (Item 4260-001-3081).... −1,590,000
(40) Amount payable from the Mental Health Services Fund (Item 4260-001-3085)..... −493,000
(41) Amount payable from the Licensing and Certification Fund (Item 4260-001-3098)..... −64,886,000
(42) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 4260-001-6031)..... −2,972,000
(43) Amount payable from California Prostate Cancer Research Fund (Item 4260-001-8025)..... −182,000

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 2006–07 fiscal year, the estimated 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 7.76 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 7.76 percent only if the fund condition statement for a fund projects a reserve less than 10 percent of estimated expenditures and the revenues projected for the 2006–07 fiscal year are less than the appropriation contained in this act.
2. 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 be increased by 22.50 percent, effective July 1, 2006.

3. The State Department of Health Services shall limit expenditures in this item to implement the Uniform Anatomical Gift Act (Chapter 819 of the Statutes of 2000) to the amount of actual fees collected from tissue banks.
4. $13,601,000 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.
5. The State Department of Health Services shall report annually 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 most recently completed 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.
6. Of the funds appropriated for new information technology projects, no funds may be expended on a project prior to approval of a feasibility study report concerning that project by the Department of Finance. The State Department of Health Services shall notify the fiscal committees of both houses of the Legislature that a feasibility study report has been approved for a project within 30 days of the report's approval by the Department of Finance, and shall include with the notification a copy of the approved feasibility study report that reflects the Department of Finance's changes.
7. It is the intent of the Legislature that all clinical positions within the Licensing and Certification Division, including medical, nursing, and pharmacy positions, that conduct core functions associated with surveys, field investigations, quality assurance, pharmaceutical monitoring, and related activities be exempt from any unallocated reductions undertaken by the department.

The purpose of this language is to assist in ensuring the health and safety of Californians who receive services in various types of facilities that are licensed or certified by the department.

8. The State Department of Health Services shall report to the Joint Legislative Budget Committee on or before February 15, 2007, on the feasibility of each of the following: (a) obtaining federal matching funds for the Trauma Care Fund as administered by the Emergency Medical Services Authority and (b) expanding the existing Medi-Cal State Plan Amendment for Los Angeles and Alameda counties on a statewide basis.
9. The State Department of Health Services shall provide the fiscal and appropriate policy committees of the Legislature with a plan for hiring positions in the Licensing and Certification Division as adopted in the Budget Act of 2006. This plan shall be provided no later than October 1, 2006, and, at a minimum, shall contain all of the following: (a) a schedule for hiring new personnel that specifies their field offices, (b) methods for recruitment of employees for field offices, (c) a description of training for new personnel, (d) methods for retaining new personnel as well as existing employees in the field offices; and (e) any other information the department chooses to provide to depict its commitment to maintaining a well-trained, viable workforce in the field offices.
10. Of the funds appropriated in this item, up to $1,000,000 shall be used by the State Department of Health Services to contract, or enter into an interagency agreement, to mitigate the effects of Valley Fever, including research and development activities for a vaccine.

SEC. 23. Item 4260-111-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

4260-111-0001—For local assistance, Department of Health Services		569,157,000
Schedule:		
(1) 10.10.010-Vital Records Improvement Project	963,000	

(2) 10.20.010-Environmental Management..... 271,429,000
(3) 10.20.040-Drinking Water..... 95,388,000
(4) 10.30.030-Childhood Lead Poisoning Prevention..... 11,000,000
(5) 10.30.040-Chronic Diseases..... 187,890,000
(6) 10.30.050-Communicable Disease Control..... 74,711,000
(7) 10.30.060-AIDS..... 311,552,000
(8) 20.30-County Health Services..... 57,956,000
(9) 20.40-Primary Care and Family Health..... 1,536,864,000
(10) Reimbursements..... −101,619,000
(11) Amount payable from the Breast Cancer Control Account (Item 4260-111-0009)..... −8,736,000
(12) Amount payable from the Childhood Lead Poisoning Prevention Fund (Item 4260-111-0080)..... −11,024,000
(13) Amount payable from the Health Statistics Special Fund (Item 4260-111-0099)..... −963,000
(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)..... −52,954,000
(16) Amount payable from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0232)..... −44,377,000
(17) Amount payable from the Physicians Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0233)..... −5,564,000
(18) Amount payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0236)..... −51,853,000

(19) Amount payable from the Child Health and Safety Fund (Item 4260-111-0279)..... −975,000
(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)..... −235,000
(22) Amount payable from the Federal Trust Fund (Item 4260-111-0890)..... −1,307,370,000
(23) Amount payable from the WIC Manufacturer Rebate Fund (Item 4260-111-3023)..... −297,401,000
(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. Notwithstanding any other provision of law, 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.
3. Notwithstanding any other provision of law, and due to the need to rapidly acquire, stockpile, store, and distribute antiviral medication to respond to outbreaks of highly communicable diseases such as pandemic influenza, contracts for such purposes funded through this item shall not be subject to Part 2 (commencing

with Section 10100) of Division 2 of the Public Contract Code.

4. (a) Of the amount appropriated in this item, the Department of Health Services shall, at the discretion of the director, allocate $9,000,000 to local mosquito and vector control agencies or other governmental entities, or contract with other entities to supplement resources for local mosquito control efforts to mitigate the threat of West Nile Virus transmission. In allocating these funds, the director shall first address high priority areas and "hot spots," based on epidemiological studies and related information to mitigate the spread of the disease. These funds shall not be used to supplant existing local vector control agency funds.

   (b) In response to the public health implications of the West Nile Virus, and in order to expedite the implementation of mosquito control efforts funded by no more than $9,000,000 appropriated in this item, the department may make and receive grants and enter into contracts and interagency agreements. The department shall be exempt from competitive bidding requirements and shall be exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

5. In order to ensure the protection of the public health, it is the Legislature's intent that all products and services to address the state's readiness related to responding to outbreaks of highly communicable diseases such as pandemic influenza be procured or ordered by September 1, 2006. Notwithstanding any other provision of law, if the Director of Health Services and the Director of General Services determine that utilizing the state's standard procurement practices related to the $160,781,000 appropriated in this item and the $34,000,000 appropriated in Item 4260-111-0890 for this purpose will result in the state's inability to meet the September 1, 2006, date, each procurement that is determined to be delayed shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 24. Item 4280-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

4280-001-0001—For support of Managed Risk Medical Insurance Board..... 2,218,000

Schedule:

(1) 10-Major Risk Medical Insurance Program.....	957,000
(2) 20-Access for Infants and Mothers Program.....	891,000
(3) 40-Healthy Families Program.....	7,905,000
(4) 50-Children's Health Initiative Matching Fund Program.....	458,000
(6) Reimbursements.....	–199,000
(7) Amount payable from Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4280-001-0236).....	–35,000
(8) Amount payable from Perinatal Insurance Fund (Item 4280-001-0309).....	–877,000
(9) Amount payable from Major Risk Medical Insurance Fund (Item 4280-001-0313).....	–942,000
(10) Amount payable from Federal Trust Fund (Item 4280-001-0890).....	–5,331,000
(11) Amount payable from Mental Health Services Fund (Item 4280-001-3085)....	–151,000
(12) Amount payable from Federal Trust Fund (Item 4280-003-0890).....	–298,000
(13) Amount payable from Children's Health Initiative Matching Fund (Item 4280-003-3055).....	–160,000

Provisions:

1. Upon order of the Department of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4280-103-0890 or 4280-103-3055 in order to effectively administer the County Health Initiative Matching Fund Program.
2. To provide for the effective use of federal State Children's Health Insurance Program funds in the County Health Initiative Matching Fund Program and 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 chairpersons of the committees in each house of the Legislature that consider 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. This provision shall not apply to any General Fund increases or reductions.

3. Augmentations to reimbursements in this item are exempt from Section 28.50. The Managed Risk Medical Insurance Board shall provide written notification within 30 days to the Joint Legislative Budget Committee describing the nature and planned expenditure of these augmentations when the amount received exceeds $200,000. Federal funds may be increased to allow for the matching of the augmentations of reimbursements and the Department of Finance may authorize the establishment of positions if costs are fully offset by the augmentations to reimbursements.

SEC. 25. Item 4280-102-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

4280-102-0001—For local assistance, Managed Risk Medical Insurance Board, for the Healthy Families Program administrative contracts..... 24,813,000

Schedule:

(1) 40-Healthy Families Program..... 71,350,000
(2) Reimbursements..... −7,488,000
(3) Amount payable from the Federal Trust Fund (Item 4280-102-0890)..... −39,049,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4280-101-0001 in order to effectively administer the Healthy Families Program.

SEC. 26. Item 4280-103-0001 of Section 2.00 of the Budget Act of 2006 is repealed.

SEC. 27. Item 5225-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

5225-001-0001—For support of the Department of Corrections and Rehabilitation..... 6,324,026,000

Schedule:

(1)	10-Corrections and Rehabilitation Administration.....	247,061,000
(2)	15-Corrections Standards Authority.....	7,021,000
(3)	20-Juvenile Operations.....	194,105,000
(4)	21-Juvenile Education, Vocations and Offender Programs.....	134,190,000
(5)	22-Juvenile Paroles.....	36,758,000
(6)	23-Juvenile Health care.....	78,487,000
(7)	25-Adult Corrections and Rehabilitation Operations.....	4,735,721,000
(8)	30-Parole Operations-Adult.....	669,058,000
(9)	35-Board of Parole Hearings.....	97,931,000
(10)	40-Community Partnerships.....	7,726,000
(11)	45-Education, Vocations and Offender Programs-Adult.....	273,496,000
(13)	Reimbursements.....	−84,696,000
(14)	Amount payable from the Corrections Training Fund (Item 5225-001-0170)....	−2,671,000
(15)	Amount payable from the Federal Trust Fund (Item 5225-001-0890).....	−6,516,000
(16)	Amount payable from the Inmate Welfare Fund (Item 5225-001-0917).....	−63,645,000

Provisions:

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 Secretary of the Department of Corrections and Rehabilitation, 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 (7) or (8), or both, may be transferred to Item 5225-101-0001, Schedule (7), 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.
8. Not later than 60 days following enactment of this act, and subsequently on February 10 and upon release of the May Revision, the Secretary of the Department of Corrections and Rehabilitation shall submit to the Director of Finance the Post Assignment Schedule for each adult institution, reconciled to budgeted authority and consistent with approved programs, along with allotments consistent with the reconciled Post Assignment Schedule for each adult institution.
11. Not later than February 17, 2007, the Secretary of the Department of Corrections and Rehabilitation shall submit to the chairpersons and vice chairpersons of the committees in both houses of the Legislature that consider the state budget and to the Legislative Analyst's Office an operating budget for each of the correctional facilities under the control of the department. Specifically, the report shall include: (a) yearend expenditures by program for each institution in the 2005–06 fiscal year, (b) allotments and projected expenditures by program for each institution in the 2006–07 fiscal year, (c) the number of authorized and vacant positions, estimated overtime budget, estimated benefits budget, and operating expense and equipment budget for each institution, and (d) a list of all capital outlay projects occurring or projected to occur during the 2006–07 fiscal year.
14. Of the funds appropriated in Schedule (1), $1,000,000 shall be available for expenditure on a comprehensive study of the Department of Corrections and Rehabilitation's existing information technology resources and workload no sooner than 30 days after approval by the Chairperson of the Joint Legislative Budget Committee of a plan to conduct such a study.
15. Of the funds appropriated in this item, $55,969,000 is provided for the purpose of funding a 3.1-percent price

increase for the Department of Corrections and Rehabilitation. Of that amount, the department shall provide a 3.1-percent increase on the variable costs and personal services amounts for public community correctional facilities.

16. The Department of Corrections and Rehabilitation shall report to the Joint Legislative Budget Committee on September 1, 2006, and March 1, 2007, regarding its efforts to reduce the hiring time for entry level peace officer classifications from point of application to point of eligibility, as well as meet the increasing demands for the institutions statewide. The department shall provide information on its progress in reducing the overall selection process from 12 to 18 months to 6 months, and on its progress in providing approximately 3,600 correctional officers in the 2006–07 fiscal year through the Basic Correctional Officer Academy.
17. No later than September 1, 2006, the Secretary of the Department of Corrections and Rehabilitation shall submit to the chairpersons and vice chairperson of the committees in both houses of the Legislature that consider the state budget and to the Legislative Analyst's Office an implementation and evaluation plan for funding provided as part of Recidivism Reduction Strategies. For each program component of Recidivism Reduction Strategies, the department shall detail its projected timeline for program implementation, including, but not limited to, purchasing equipment and supplies, hiring staff, securing contracts, beginning participation by inmates and parolees, and reaching full operating capacity. For each program component of Recidivism Reduction Strategies, the plan shall also identify the specific measures by which the department plans to evaluate these programs, the baseline measurements for these programs, as well as identify projected implementation targets and targeted projected outcomes for September 2006, March 2007, and annually for five years that the department expects to achieve for each of these measures.
18. Of the funds appropriated in this item, $900,000 shall be used to contract with correctional program experts to complete comprehensive evaluations of all adult prison and parole programs designed to reduce recidi-

vism, including education, rehabilitation and treatment, and parole programs, for both male and female inmates and parolees. This evaluation shall include an inventory of existing programs, including program capacity, as well as an assessment of whether each of these programs is likely to have a significant impact on recidivism for those participants. This evaluation shall also include an estimate of the number of inmates or parolees not currently participating in these programs who would be likely to benefit from participation. The Department of Corrections and Rehabilitation shall submit to the chairpersons and vice chairpersons of the committees in both houses of the Legislature that consider the state budget and to the Legislative Analyst's Office a report detailing the findings of the evaluation by June 30, 2007.

22. Of the funds appropriated in this item, $281,626,000 is available for expenditure only for the purposes identified below. Any unexpended funds shall revert to the General Fund.
    (a) Basic Correctional Officer Academy Expansion: $54,503,000
    (b) Farrell v. Hickman, Healthcare Remedial Plan: $7,530,000
    (c) Farrell v. Hickman, Ward Safety and Welfare Remedial Plan: $42,934,000
    (d) Electronic In-Home Detention Restoration: $1,202,000
    (e) Medical Guarding and Transportation: $30,958,000
    (f) Records Staffing and Automation: $7,759,000
    (g) Electromechanical Security Door Operating and Locking System: $3,000,000
    (h) Equipment Replacement: $400,000
    (i) Private Community Correctional Facility Security Enhancements: $453,000
    (j) Recidivism Reduction Strategies: $52,761,000
    (k) Global Positioning System Monitoring Expansion: $5,134,000
    (*l*) Critical Special Repair Projects and Assessments: $11,000,000
    (m) Gang Management: $200,000

(n) Restoration of Parole Hearings Appeals Unit: $640,000
(o) Rutherford v. Schwarzenegger, Life Prisoner Parole Hearing Staffing: $6,646,000
(p) Protective Vests: $4,079,000
(q) Enterprise Information Services Corrective Action Plan: $2,249,000
(r) Madrid v. Woodford, Compliance: $5,168,000
(s) Garrison Johnson v. California, Racial Integration: $4,829,000
(t) Victims and Witness Assistance at Parole Revocation Hearings: $1,430,000
(u) Farrell v. Hickman, Mental Health Remedial Plan Resources: $14,778,000
(v) Farrell v. Hickman, Consent Decree: $1,327,000
(w) Space Needs Related to Farrell v. Hickman: $12,469,000
(x) Substance Abuse Treatment Funding: $835,000
(y) Coleman v. Schwarzenegger, Court Order Compliance: $2,325,000
(z) Comprehensive Health Care Recruitment Staff: $3,928,000
(aa) Coleman v. Schwarzenegger, Psychiatrists Pay Enhancement: $3,089,000

23. Within the 2006–07 fiscal year, the Division of Juvenile Justice shall implement Behavior Treatment Programs in at least seven living units, enhanced Core Treatment Programs in at least 12 living units, and at least one reentry living unit. In order to demonstrate measurable outcomes, the Division of Juvenile Justice shall focus the implementation of Core Treatment Programs at one individual facility in the first fiscal year. No later than September 15, 2006, and March 15, 2007, the Division of Juvenile Justice shall report to the Joint Legislative Budget Committee on specific performance measures by which the Department of Corrections and Rehabilitation plans to evaluate these programs, the baseline measurements for these programs, as well as projected implementation targets and projected outcomes for March 2007, and September 2007, related to the implementation of the Farrell remedial plans. Performance measures should

include both process and outcome measures consistent with a critical path for project implementation.

24. Funds appropriated to accommodate projected adult institutional and parolee population levels in excess of those that actually materialize, if any, shall revert to the General Fund.
25. Of the amount appropriated in Schedule (9), up to $4,200,000 shall be available to pay for costs of providing legal representation on behalf of the state at parole revocation hearings. However, these funds shall only be available for representation in cases where a witness is subpoenaed to testify on behalf of the state. Use of these funds for legal representation shall not result in creation of a deficiency in this item.

SEC. 28. Item 5225-101-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

5225-101-0001—For local assistance, Department of Corrections and Rehabilitation		324,208,000
Schedule:		
(1) 15-Corrections Standards Authority	246,841,000	
(2) 20-Juvenile Operations	78,000	
(3) 22-Juvenile Paroles	11,403,000	
(4) 25.15.010-Adult Corrections and Rehabilitation Operations—Transportation of Inmates	278,000	
(5) 25.15.020-Adult Corrections and Rehabilitation Operations—Return of Fugitives	2,593,000	
(6) 25.30-Adult Corrections and Rehabilitation Operations—County Charges	17,160,000	
(7) 30-Parole Operations—Adult	45,855,000	

Provisions:

1. The amount appropriated in Schedules (4), (5), (6), and (7) 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 1190 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 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.

(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 and Rehabilitation, 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 incurred. Claims filed by local jurisdictions may not include booking fees, may not recover detention costs in excess of $71.57 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 and Rehabilitation 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 and Rehabilitation 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 (7) of this item may be transferred to Schedule (7) or (8), or both, of Item 5225-001-0001, 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.

4. The amounts appropriated in Schedules (2) and (3) are provided for the following purposes:

(a) To pay the transportation costs of persons committed to the Department of Corrections and Rehabilitation 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 the Department of Corrections and Rehabilitation parolees who are detained on alleged parole violations, provided that expendi-

tures 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.

5. Of the amount appropriated in Schedule (3), $10,000,000 is for the Juvenile Justice Community Reentry Challenge Grant Program. Of the amount appropriated for this program, up to a total of 5 percent shall be transferred upon the approval of the Director of Finance to either Schedule (2) or (5), or both, of Item 5225-001-0001 for expenditure to administer this program, including technical assistance to counties and the development of an evaluation component.
6. Notwithstanding any other provision of law, of the funds appropriated in Schedule (1), $22,295,500 shall be allocated for Mentally Ill Offender Crime Reduction grants for adult offenders, consistent with the purpose and intent of Senate Bill 1485 (Chapter 501 of the Statutes of 1998). The grants shall be awarded on a competitive basis using criteria developed by the Corrections Standards Authority. The authority shall develop regulations necessary for the operation of the program.
7. Notwithstanding any other provision of law, of the funds appropriated in Schedule (1), $22,295,500 shall be allocated for Mentally Ill Offender Crime Reduction grants for juvenile offenders, consistent with the purpose and intent of Senate Bill 1485 (Chapter 501 of the Statutes of 1998). The grants shall be awarded on a competitive basis using criteria developed by the Corrections Standards Authority. The authority shall develop regulations necessary for the operation of the program.
8. Notwithstanding any other provision of law, the funds appropriated in this item for the Mentally Ill Offender Crime Reduction grant program shall be available for expenditure until December 31, 2008.
9. Counties that were awarded funding under a prior Mentally Ill Offender Crime Reduction grant program that were not able to complete the program, as initially

approved, due to reduced funding levels shall receive priority consideration of their grant application.

SEC. 29. Item 6110-108-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-108-0001—For local assistance, Department of Education (Proposition 98), for grades 7 to 12 school counselors..... 200,000,000

Provisions:

1. Of the funds appropriated in this item, $200,000,000 shall be available to grades 7 to 12, inclusive, to increase the number of counselors in schools.
2. The appropriation in this item is contingent upon the enactment of legislation during the 2005–06 Regular Session that supplements, not supplants, the number of school counselors that serve students in grades 7 to 12, inclusive, and that gives priority to serving students who have failed or are at risk of failing the California High School Exit Examination, or who risk not graduating due to insufficient credits.

SEC. 30. Item 6110-113-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-113-0001—For local assistance, Department of Education (Proposition 98), for purposes of California's pupil testing program..... 88,945,000

Schedule:

(1)	20.70.030.005-Assessment Review and Reporting.....	2,313,000
(2)	20.70.030.006-STAR Program.....	65,433,000
(3)	20.70.030.007-English Language Development Assessment.....	10,056,000
(4)	20.70.030.008-High School Exit Examination.....	11,143,000
(5)	20.70.030.015-California High School Proficiency Examination.....	1,020,000
(6)	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 (commencing

with Section 60810), and Chapter 9 (commencing with Section 60850) of Part 33 of the Education Code.

2. The funds appropriated in Schedule (2) are provided for approved contract and district apportionment costs for the development and administration of the California Standards Test, the national Norm-Referenced Test, the Standards-Based Test in Spanish, the California Alternate Performance Assessment, the Designated Primary Language Test, and the California Modified Assessment, as part of the STAR Program.
3. The funds appropriated in Schedule (3) 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 $9,813,000 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 federal No Child Left Behind Act of 2001 (P.L. 107-110) regarding English language learners by the State Department of Education.
4. The funds appropriated in Schedule (4) 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. The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for 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.

4.5. Of the funds appropriated in Schedule (4), $5,100,000 is for additional administrations of the High School Exit Examination. By April 5, 2007, the State Department of Education shall report to the Legislature on the number of pupils taking the exam during these additional administrations.

5. It is the intent of the Legislature that the State Department of Education develop a plan to streamline exist-

ing 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.

6. Funds provided to local educational agencies from Schedules (2), (3), and (4) shall first be used to offset any state-mandated reimbursable costs within the meaning of Section 17556 of the Government Code, 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 High School Exit Examination. Local educational agencies receiving funding from these schedules shall reduce their estimated and actual mandated reimbursement claims by the amount of funding provided to them from these schedules.

8. The funds appropriated in Schedule (2) include one-time funds of $80,000 to develop a writing test for the new California Modified Assessment for the STAR Program.

SEC. 31. Item 6110-128-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

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.... 973,388,000

Schedule:

(1) 10.30.070.001-Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of the Education Code..... 973,388,000

Provisions:

2. Of the funds appropriated in this item, $36,480,000 is to provide a cost-of-living adjustment at a rate of 5.92 percent.

3. Pursuant to paragraph (2) of subdivision (b) of Section 47634.1 of the Education Code, charter schools shall receive an in lieu Economic Impact Aid per-pupil funding rate equal to the statewide average Economic Impact Aid per-pupil rate. Funds shall be transferred, as needed, from this item to Item 6110-211-0001 to

ensure that charter schools are provided the appropriate in lieu Economic Impact Aid per-pupil rate.

4. On or before January 1, 2007, the State Department of Education shall report to the Legislature and the administration on data specific to English learners and economically disadvantaged students, including data from the results of the California Standards Tests, the California English Language Development Test, and the California High School Exit Examination.

SEC. 32. Item 6110-137-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

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 56,728,000

Provisions:

1. The funds appropriated in this item shall be for allocation to local educational 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 educational agencies of this percentage, the Superintendent of Public Instruction shall submit the calculation to the Department of Finance for verification.
3. Of the funds appropriated in this item, $25,000,000 is to provide professional development to address the needs of teachers of English learners pursuant to legislation to be enacted during the 2005–06 Regular Session.

SEC. 33. Item 6110-141-0001 of Section 2.00 of the Budget Act of 2006 is repealed.

SEC. 34. Item 6110-161-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-161-0001—For local assistance, Department of Education (Proposition 98), Program 10.60-Special Education Programs for Exceptional Children..... 3,065,640,000

Schedule:

(1) 10.60.050.003-Special education instruction..... 2,997,996,000

(2) 10.60.050.080-Early Education Program for Individuals with Exceptional Needs..... 82,039,000

(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 2006–07 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.
2. Of the funds appropriated in Schedule (1), $12,047,000, 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), $9,196,000, 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 nonfederal 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), $4,797,000, plus any COLA, shall be available for regional occupational centers and programs that serve pupils having disabilities, and $80,786,000, plus any COLA, shall be available for regionalized program specialist services, $2,285,000, 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), $3,000,000 is provided for extraordinary costs associated with single placements in nonpublic, nonsectarian schools, pursuant to Section 56836.21 of the Education Code. Pursuant to legislation, these funds shall also provide reimbursement for costs associated with pupils residing in licensed children's institutes.
6. Of the funds appropriated in Schedule (1), a total of $185,347,000, plus any COLA, is available to fund the costs of children placed in licensed children's institutions who attend nonpublic schools based on the funding formula authorized in Chapter 914 of the Statutes of 2004.
7. Funds available for infant units shall be allocated with the following average number of pupils per unit:
   (a) For special classes and centers—16.
   (b) For resource specialist programs—24.
   (c) For designated instructional services—16.
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 2006–07 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.
9. Notwithstanding any other provision of law, state funds appropriated in Schedule (2) in excess of the amount necessary to fund the deficited entitlements

pursuant to Section 56432 of the Education Code and Provision 10 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 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 2006–07 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), $169,000, 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.
13. 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.
14. Of the funds appropriated in Schedule (1), $29,478,000 shall be allocated to local educational agencies for the purposes of Project Workability I.

15. Of the funds appropriated in Schedule (1), $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.
16. Of the funds appropriated in Schedule (1), up to $1,117,000 shall be used for a personnel development program. This program shall include state-sponsored staff development for special education personnel to have the necessary content knowledge and skills to serve children with disabilities. This funding may include training and services targeting special education teachers and related service personnel that teach core academic or multiple subjects to meet the applicable special education requirements of the Individuals with Disabilities Education Improvement Act of 2004.
17. Of the funds appropriated in Schedule (1), up to $200,000 shall be used for research and training in cross-cultural assessments.
18. Of the amount specified in Schedule (1), $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 Chapter 493 of the Statutes of 2004.
19. Of the amount provided in Schedule (1), $179,715,000 is provided for a COLA at a rate of 5.92 percent.
20. Of the amount provided in Schedule (2), $4,585,000 is provided for a COLA at a rate of 5.92 percent.
21. Of the amount specified in Schedule (1), $12,800,000 shall be allocated to each SELPA based upon an equal amount per ADA and added to each SELPA's base funding as determined pursuant to Chapter 854 of the Statutes of 1997.
22. Of the amount appropriated in this item, $1,480,000 is 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, 2007, to the fiscal committees of both houses 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 the Ravenswood Elementary School District pursuant to this settlement. The

report shall also provide the State Department of Education's best estimate of when this supplemental funding will no longer be required by the court. The State Department of Education shall comply with the requirements of Section 948 of the Government Code in any further request for funds to satisfy this settlement.

23. Of the funds appropriated in this item, $2,500,000 shall be allocated directly to special education local plan areas for a personnel development program that meets the highly qualified teacher requirements and ensures that all personnel necessary to carry out this part are appropriately and adequately prepared, subject to the requirements of paragraph (14) of subdivision (a) of Section 612 of the Individuals with Disabilities Education Act of 2004 (IDEA), and Section 2122 of the Elementary and Secondary Education Act of 1965. The local in-service programs shall include a parent training component and may include a staff training component, and may include a special education teacher component for special education service personnel and paraprofessionals, consistent with state certification and licensing requirements. 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.
24. Of the amount appropriated in Schedule (1), $50,610,000 shall be allocated to each SELPA based upon an equal amount per ADA and added to each SELPA's base funding as determined pursuant to Chapter 854 of the Statutes of 1997, consistent with subdivision (b) of Section 56836.158 of the Education Code.
25. Notwithstanding any other provision of law, state funds appropriated in Schedule (1) in excess of the amount necessary to fund the defined entitlement shall be to fulfill other shortages in entitlements budgeted in this schedule by the State Department of Education, upon Department of Finance approval, to any program funded under Schedule (1).

SEC. 35. Item 6110-182-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-182-0001—For local assistance, Department of Education (Proposition 98), Program 20.20.030-K–12 High Speed Network..... 0

Provisions:

2. Expenditure authority of up to $15,600,000 is provided for the K–12 High Speed Network.
3. Of the amount authorized for expenditure in Provision 2, $3,000,000 of unexpended cash reserves and $4,000,000 of unexpended funds set aside for equipment replacement from the following appropriations are available to continue management and operation of the network during the 2006–07 fiscal year: Item 6440-001-0001, Schedule (a), Provision 44 of Chapter 52, Statutes of 2000; Item 6440-001-0001, Schedule (1), Provision 24 of Chapter 106, Statutes of 2001; Item 6440-001-0001, Schedule (1), Provision 24 of Chapter 379, Statutes of 2002; Item 6440-001-0001, Schedule (1), Provision 22 of Chapter 157, Statutes of 2003; and Item 6110-182-0001, Chapter 208, Statutes of 2004.
4. Of the amount authorized for expenditure in Provision 2, $4,600,000 shall be funded by E-rate and California Teleconnect Fund moneys. The lead educational agency or the Corporation for Education Network Initiatives in California (CENIC), or both, shall submit quarterly reports to the Department of Finance and the Legislature on funds received from E-rate and the California Teleconnect Fund.

4.5. Of the amount authorized for expenditure in Provision 2, $4,000,000 shall be available from one-time Proposition 98 funds pursuant to legislation enacted during the 2005–06 Regular Session of the Legislature.

5. For the 2006–07 fiscal year, all major subcontracts of the K–12 High Speed Network program shall be excluded from both the eligible program costs on which indirect costs are charged and from the calculation of the indirect cost rate based on that year's data. For purposes of this provision, a major subcontract is defined as a subcontract for services in an amount in excess of $25,000.

SEC. 36. Item 6110-190-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-190-0001—For local assistance, Department of Education (Proposition 98), Program 10.10-School Apportionments, Community Day Schools..... 44,995,000

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.
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, $2,780,000 is for the purpose of providing a cost-of-living adjustment (COLA) at a rate of 5.92 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 $4,751,000 in expenditures for this item has been deferred until the 2007–08 fiscal year.

SEC. 37. Item 6110-195-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

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.

SEC. 38. Item 6110-196-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

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..... 1,388,623,000

Schedule:

(1) 30.10.010-Special Program, Child Development, Preschool Education..... 397,349,000

(1.5) 30.10.020-Child Care Services..... 1,845,828,000

(a) 30.10.020.001-Special Program, Child Development, General Child Development Programs..... 692,054,000

(c) 30.10.020.004-Special Program, Child Development, Migrant Day Care..... 36,024,000

(d) 30.10.020.007-Special Program, Child Development, Alternative Payment Program..... 227,887,000

(e) 30.10.020.011-Special Program, Child Development, Alternative Payment Program—Stage 2..... 425,209,000

(f) 30.10.020.012-Special Program, Child Development, Alternative Payment Program—Stage 3 Set-aside..... 334,140,000

(g) 30.10.020.008-Special Program, Child Development, Resource and Referral..... 17,557,000

(i) 30.10.020.015-Special Program, Child Development, Extended Day Care..... 31,517,000
(j) 30.10.020.096-Special Program, Child Development, Allowance for Handicapped..... 1,728,000
(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..... 65,568,000
(m) 30.10.020.911-Special Program, Child Development, Centralized Eligibility List..... 7,900,000
(n) 30.10.020.920-Special Program, Child Development, Local Planning Councils..... 5,994,000

(3) 30.10.020.908-Special Program, Child Development, Cost-of-Living Adjustments..... 80,250,000
(4) 30.10.020.909-Special Program, Child Development, Growth Adjustments..... 28,484,000
(5) Amount payable from the Federal Trust Fund (Item 6110-196-0890)..... –963,288,000

Provisions:

1. Notwithstanding Section 8278 of the Education Code, funds available for expenditure pursuant to that section shall be expended in the 2006–07 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.
   (b) $72,452,000 shall be available for CalWORKs Stage 2 child care.

(c) The Controller shall establish an account entitled Section 8278 Expenditures in 2005 in Item 6110-196-0001, Program 30.10.060. Any unexpended General Fund balances as of June 30, 2006, or subsequent abatements, from those amounts listed in Schedules (1), (1.5)(a), (1.5)(c), (1.5)(d), (1.5)(g), (1.5)(i), (1.5)(j), (1.5)(k), (1.5)(*l*), and (1.5)(n), 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. (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. When approved pursuant to Section 8447 of the Education Code, any changes to the market rate limits, adjustment factors or regions shall be utilized by the State Department of Education and the State Department of Social Services in various programs under the jurisdiction of either department.

(b) Notwithstanding any other provision of law, the funds appropriated in this item for the cost of licensed 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.

3. Of the amount appropriated in Schedule (1), $50,000,000 is available to expand state preschool programs pursuant to legislation enacted during the 2005–06 Regular Session.

5. Funds in Schedule (1.5)(*l*) shall be reserved for activities to improve the quality and availability of child care, pursuant to the following:

(a) $1,990,000 is for the schoolage care and resource and referral earmark.

(b) $11,221,000 is for the infant and toddler earmark and shall be used for increasing the supply of quality child care for infants and toddlers.

(c) $5,233,000 in one-time federal funding is available for use in the 2006–07 fiscal year. Of that amount, $200,000 shall be used for Trustline registration workload (Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code), $1,500,000 shall be used for health and safety training for both licensed and license-exempt child care providers, and $1,000,000 shall be used for the development of preschool learning standards. The remaining funds shall be used for child care and development quality expenditures identified by the State Department of Education and approved by the Department of Finance.

(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 State Department of Social Services (DSS) for increased inspections of child care facilities; $1,000,000 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 licensed 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) As required by federal law, the State Department of Education (SDE) 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 the Budget Act of 2004 (Ch.

208, Stats. 2004). This plan shall be submitted to the Department of Finance by February 15 of each year, and funds shall not be encumbered prior to approval of the plan by the Department of Finance. The SDE shall coordinate with the DSS, 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.

(f) The department shall establish an expenditure plan for the 2007–08 fiscal year that sets forth the proposed state and local activities to improve child care, including the reasons therefor, to be undertaken in the 2007–08 fiscal year. The plan 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 and no later than March 1, 2007.

(g) $15,000,000 from the General Fund shall be for child care worker recruitment and retention programs authorized by Chapter 547 of the Statutes of 2000.

6. (a) The State Department of Education (SDE) shall conduct monthly analyses of CalWORKs Stage 2 and Stage 3 caseloads and expenditures and adjust agency contract maximum reimbursement amounts and allocations as necessary to ensure funds are distributed proportionally to need. The SDE shall share monthly caseload analyses with the State Department of Social Services (DSS).

(b) The SDE shall provide quarterly information regarding the sufficiency of funding for Stage 2 and Stage 3 to DSS. The SDE shall provide caseloads, 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 30 and March 30 of each year, the SDE 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. 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 next two fiscal years 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 current fiscal year, to provide coordinated estimates in November of each year for each of the three stages of care for preparation of the Governor's Budget, and shall utilize data from at least the first two quarters of the current fiscal year, and any additional monthly data as they become available for preparation of the May Revision. DSS shall share its assumptions and methodology with SDE in the preparation of the Governor's Budget.

(f) The SDE shall coordinate with the DSS to identify annual general subsidized child care program expenditures for TANF-eligible children. The SDE shall modify existing reporting forms as necessary to capture this data.

(g) The SDE shall provide to the DSS, 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.

7. Notwithstanding any other provision of law, the funds in Schedule (1.5)(f) are reserved exclusively for continuing child care for the following: (a) former CalWORKs families who are working, have left cash aid and have exhausted their two-year eligibility for transitional services in either Stage 1 or 2 pursuant to subdivision (c) of Section 8351 or Section 8353 of the Education Code, respectively, but still meet eligibility requirements for receipt of subsidized child care services; and (b) 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.
8. Nonfederal funds appropriated by 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.
9. Notwithstanding any other provision of law, administrative and support services allowances for the programs funded through Schedules (1.5)(d), (1.5)(e), and (1.5)(f) shall be limited to no more than 20 percent of the total contract amount.
10. Notwithstanding Section 26.00, the funds appropriated in Schedule (3), for child development cost-of-living adjustments, are for allocation among Schedules (1), (1.5)(a), (1.5)(c), (1.5)(d), (1.5)(g), (1.5)(i), (1.5)(j), and (1.5)(n). Funds shall not be allocated to programs prior to approval of a budget revision by the Department of Finance. After allocation of the COLA, the maximum standard reimbursement rate shall not exceed $32.89 per day for General Child Care programs

and $20.30 per day for State Preschool Programs. Furthermore, the Migrant Child Care and 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.

11. Notwithstanding Section 26.00, the funds appropriated in Schedule (4), for child development growth adjustments, are for allocation among Schedules (1.5)(a), (1.5)(c), (1.5)(d), (1.5)(i), and (1.5)(j).

    Funds allocated to Schedules (1.5)(a), (1.5)(c), (1.5)(i), and (1.5)(j) shall be used by the State Department of Education to increase the standard reimbursement rate to the level specified in Provision 10. Funds shall not be allocated to programs prior to approval of a budget revision by the Department of Finance.

13. Notwithstanding any other provision of law, the federal funds in Schedule (1.5)(m) are appropriated exclusively for developing and maintaining a centralized eligibility list in each county pursuant to Section 8227 of the Education Code. By November 1 of each year, the State Department of Education shall provide a status report on implementing eligibility lists in each county, which shall include, but is not limited to, the cost of implementation and operation of the eligibility lists in each county, and number of children and families on the list for each county.

14. Notwithstanding Section 8278.3 of the Education Code or any other provision of law, up to $5,000,000 of the Child Care Facilities Revolving Fund balance may be allocated for use on a one-time basis to allow facilities to perform necessary renovations and repairs to meet health and safety standards, to comply with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Secs. 12101 et seq.), and to perform emergency repairs, that were the result of an unforeseen event and are necessary to maintain continued normal operation of the child care and development program. These funds shall be made available to school districts and contracting agencies that provide subsidized center-based services pursuant to the Child Care and Development Services Act, Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code.

15. It is the intent of the Legislature to convene a workgroup consisting of representatives from the Department of Finance, the Legislature, and the State Department of Education. The workgroup shall consider the process for setting subsidized voucher rates for child care providers that do not serve nonsubsidized families.

SEC. 39. Item 6110-204-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-204-0001—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 for allocation to school districts to increase the number of pupils that pass the California High School Exit Examination..... 69,599,000

Provisions:

1. The funds appropriated in this item are available to assist eligible pupils, pursuant to Section 37254 of the Education Code, who are required to pass the California High School Exit Examination in order to receive a diploma in 2007 and 2008.
4. The Superintendent of Public Instruction shall apportion $500 per eligible pupil, to the extent that funds are available.
5. The funds in this item shall be allocated by the State Department of Education as specified in this item no later than October 1 of each fiscal year.
6. Any unused funds shall be prorated to all eligible class of 2008 students who failed one or both parts of the California High School Exit Examination.

SEC. 40. Item 6110-260-0001 is added to Section 2.00 of the Budget Act of 2006, to read:

6110-260-0001—For local assistance, Department of Education (Proposition 98), 20.11-Instructional Support: Physical Education Teacher Incentive Grants..... 40,000,000

Provisions:

1. The funds appropriated in this item are for transfer by the Controller to the Superintendent of Public Instruction to provide incentive grants to schools serving

kindergarten or any of grades 1 to 8, inclusive, to support the hiring of more credentialed physical education teachers.

These grants shall be allocated in the amount of $35,000 per schoolsite in order to hire teachers to provide instruction in physical education courses. Grant recipients shall be randomly selected and be equitably distributed based on type of school, size, and geographic location.

2. As a condition of receipt of funds, school districts identified through the process required pursuant to Section 41020 of the Education Code as not meeting the required physical education instruction minutes required in Section 51222 of the Education Code, shall be required to provide a plan to the County Office of Education that corrects the deficient physical education minutes for the following school year and, to the extent practicable, make up the deficient minutes identified.

SEC. 41. Item 6110-262-0001 of Section 2.00 of the Budget Act of 2006 is repealed.

SEC. 42. Item 6110-265-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6110-265-0001—For local assistance, Department of Education (Proposition 98), Program 20.15—Arts and Music Block Grant..... 105,000,000

Provisions:

1. The funds appropriated in this item shall be for the purpose of providing block grants to school districts, charter schools, and county offices of education to support standards-aligned art and music instruction in kindergarten and grades 1 to 12, inclusive. It is the intent of the Legislature that these funds supplement, and not supplant, existing resources for arts and music.
2. The State Department of Education shall allocate the funding to districts, charter schools, and county offices of education at an equal per pupil amount on the basis of a minimum of $2,500 for schoolsites with 10 or fewer students and a minimum of $4,000 per schoolsite with more than 20 students.
3. The funds appropriated in this item may be used for hiring of additional staff, purchase of new materials,

books, supplies, and equipment, and implementing or increasing staff development opportunities, as necessary to support standards-aligned arts and music instruction.

SEC. 43. Item 6110-268-0001 is added to Section 2.00 of the Budget Act of 2006, to read:

6110-268-0001—For local assistance, Department of Education (Proposition 98), Child Oral Health Assessments Program 4,400,000

Provisions:

1. Of the amount appropriated in this item, $4,400,000 is to be allocated to local educational agencies and is contingent upon legislation enacted during the 2005–06 Regular Session regarding child oral health assessments.

SEC. 44. Item 6110-295-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

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..... 38,000

Schedule:

(1)	98.01.003.677-Annual Parent Notification (Ch. 36, Stats. 1977, et al.) (CSM 4445, 4453, 4461, 4462, 4474, 4488, 97-TC-24, 99-TC-09, 00-TC-12).....	1,000
(2)	98.01.009.894-Caregiver Affidavits (Ch. 98, Stats. 1994) (CSM 4497).....	1,000
(3)	98.01.016.193-Intradistrict Attendance (Ch. 161, Stats. 1993) (CSM 4454).....	1,000
(4)	98.01.048.765-Mandate Reimbursement Process (Ch. 486, Stats. 1975) (CSM 4485).....	1,000
(5)	98.01.049.801-Graduation Requirements (Ch. 498, Stats. 1983) (CSM 4435).....	1,000

(6)	98.01.049.802-Notification of Truancy (Ch. 498, Stats. 1983) (CSM 4133).....	1,000
(7)	98.01.049.803-Pupil Suspensions, Expulsions, Expulsion Appeals (Ch. 498, Stats. 1983, et al.) (CSM 4456, 4455, 4463).....	1,000
(8)	98.01.078.192-Charter Schools (Ch. 781, Stats. 1992) (CSM 4437).....	1,000
(9)	98.01.079.980-PERS Death Benefits (Ch. 799, Stats. 1980).....	1,000
(10)	98.01.081.891-AIDS Prevention Instruction I and II (Ch. 818, Stats. 1991; Ch. 403, Stats. 1998) (CSM 4422; 99-TC-07, 00-TC-01).....	1,000
(11)	98.01.096.175-Collective Bargaining (Ch. 961, Stats. 1975) (CSM 4425, 97-TC-08).....	1,000
(12)	98.01.096.577-Pupil Health Screenings (Ch. 1208, Stats. 1976) (CSM 4440)....	1,000
(13)	98.01.097.595-Physical Performance Tests (Ch. 975, Stats. 1995) (96-365-01).....	1,000
(14)	98.01.101.184-Juvenile Court Notices II (Ch. 1011, Stats. 1984; Ch. 1423, Stats. 1984) (CSM 4475).....	1,000
(15)	98.01.110.784-Removal of Chemicals (Ch. 1107, Stats. 1984) (CSM 4211, 4298).....	1,000
(16)	98.01.111.789-Law Enforcement Agency Notifications (Ch. 1117, Stats. 1989) (CSM 4505, 4505-2).....	1,000
(17)	98.01.117.677-Immunization Records (Ch. 1176, Stats. 1977) (SB 90-120).....	1,000
(18)	98.01.118.475-Habitual Truants (Ch. 1184, Stats. 1975) (CSM 4487, 4487-A).....	1,000
(19)	98.01.125.375-Expulsion Transcripts (Ch. 1253, Stats. 1975).....	1,000
(20)	98.01.130.689-Notification to Teachers of Public Expulsion (Ch. 1306, Stats. 1989) (CSM 4452).....	1,000
(21)	98.01.134.780-Scoliosis Screening (Ch. 1347, Stats. 1980) (CSM 4195).....	1,000

(22) 98.01.139.874-PERS Unused Sick Leave Credit (Ch. 1398, Stats. 1974).... 1,000
(23) 98.01.030.995-Pupil Residency Verification and Appeals (Ch. 309, Stats. 1995) (96-384-01)..... 1,000
(24) 98.01.058.897-Criminal Background Checks (Ch. 558, Stats. 1997) (97-TC-16)..... 1,000
(25) 98.01.083.194-School Bus Safety I and II (Ch. 624, Stats. 1992; Ch. 831, Stats. 1994; Ch. 739, Stats. 1997) (97-TC-22)..... 0
(26) 98.01.046.576-Peace Officers Procedural Bill of Rights (Ch. 465, Stats. 1976) (CSM 4499)..... 1,000
(27) 98.01.361.977-Financial and Compliance Audits (Ch. 36, Stats. 1977) (CSM 4498, 4498-A)..... 1,000
(28) 98.01.064.097-Physical Education Reports (Ch. 640, Stats. 1997) (98-TC-08)..... 1,000
(29) 98.01.112.096-Health Benefits for Survivors of Peace Officers and Firefighters (Ch. 1120, Stats. 1996) (97-TC-25)..... 1,000
(30) 98.01.091.787-County Office of Education Fiscal Accountability Reporting (Ch. 917, Stats. 1987) (97-TC-20)..... 1,000
(31) 98.01.010.081-School District Fiscal Accountability Reporting (Ch. 100, Stats. 1981) (97-TC-19)..... 1,000
(32) 98.01.012.693-Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993) (97-TC-07)..... 0
(33) 98.01.078.495-County Treasury Withdrawals (Ch. 784, Stats. 1995) (96-365-03)..... 0
(34) 98.01.073.697-Comprehensive School Safety Plans (Ch. 736, Stats. 1997) (98-TC-01, 99-TC-10)..... 1,000
(35) 98.01.032.578-Immunization Records—Hepatitis B (Ch. 325, Stats. 1978; Ch. 435, Stats. 1979 (98-TC-05)..... 1,000

(36) 98.01.119.280-School District Reorganization (Ch. 1192, Stats. 1980; Ch. 1186, Stats. 1994) (98-TC-24)..... 1,000
(37) 98.01.003.498-Charter Schools II (Ch. 34, Stats. 1998; Ch. 673, Stats. 1998) (99-TC-03)..... 1,000
(38) 98.01.059.498-Criminal Background Checks II (Ch. 594, Stats. 1998; Ch. 840, Stats. 1998, Ch. 78, Stats. 1999) (00-TC-05)..... 1,000
(39) 98.01.117.096-Grand Jury Proceedings (Ch. 1170, Stats. 1996, et al.) (98-TC-27)..... 0
(40) 98.01.074.398-Pupil Promotion and Retention (Ch. 100, Stats. 1981, et al.) (98-TC-19)..... 1,000
(41) 98.01.033.198-Teacher Incentive Program (Ch. 331, Stats. 1998) (99-TC-15)..... 1,000
(42) 98.01.030.098-Differential Pay and Reemployment (Ch. 30, Stats. 1998) (99-TC-02)..... 1,000

Provisions:

1. If the amount appropriated in this item is less than the amount required to fund eligible claims contained in this item and in Item 6870-295-0001, the State Controller shall prorate payments proportionately between these items.
2. Notwithstanding any other provision of law, the funds allocated for PERS Death Benefits (Ch. 799, Stats. 1980) and PERS Unused Sick Leave Credit (Ch. 1398, Stats. 1974) 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.
3. Pursuant to Section 17581.5 of the Government Code, mandates included in the language of this provision are specifically identified by the Legislature for suspension during the 2006–07 fiscal year:
   (25) School Bus Safety I and II (Ch. 624, Stats. 1992; Ch. 831, Stats. 1994; Ch. 739, Stats. 1997) (97-TC-22).

(32) 98.01.012.693-Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993) (97-TC-07).
(33) 98.01.078.495-County Treasury Withdrawals (Ch. 784, Stats. 1995) (96-365-03).
(39) 98.01.117.096-Grand Jury Proceedings (Ch. 1170, Stats. 1996, et al.) (98-TC-27).

4. It is noted that additional funding is provided in Item 6110-485 in the event that funding provided in this item is insufficient to fully fund mandates claimed pursuant to this item.

SEC. 45. Item 6360-101-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6360-101-0001—For local assistance, Commission on Teacher Credentialing (Proposition 98), Program 10, Standards for Preparation and Licensing of Teachers..... 39,881,000

Schedule:

(1) 10.20.001-Alternative Certification Program..... 31,723,000
(2) 10.20.002-California School Paraprofessional Teacher Training Program..... 7,850,000
(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. Of these funds, $6,800,000 is available to increase intern grants for school districts and county offices that agree to enhance internship programs and address the distribution of beginning teachers pursuant to the enactment of legislation during the 2005– 06 Regular Session.
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 pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25 of the Education Code. Of these funds, $1,267,000 is available to increase the per-participant

rate and to address participant waiting lists pursuant to the enactment of legislation during the 2005–06 Regular Session.

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.

SEC. 46. Item 6440-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6440-001-0001—For support of University of California..... 2,835,604,000

Schedule:

(1)	Support.....	2,752,108,000
(2)	Charles R. Drew Medical Program.....	8,738,000
(3)	Acquired Immune Deficiency Syndrome (AIDS) Research.....	9,214,000
(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 funds appropriated, $500,000 is con-

tingent 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 in Schedule (2) are expended solely for the support of the program identified in that schedule.

4. Of the funds 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 funds appropriated in Schedule (1), $2,762,129 is for payment of energy service contracts in connection with the issuance of Public Works Board Energy Efficiency Revenue Bonds.
7. Of the funds 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 funds 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), $1,609,000 is for the California State Summer School for Math and Science (COSMOS). The University of California shall report on the outcomes and effectiveness of COSMOS every five years, commencing April 1, 2011.
10. Of the funds appropriated in Schedule (1), $770,000 is for the Welfare Policy Research Project, pursuant to Article 9.7 (commencing with Section 11526) of

Chapter 2 of Part 3 of the Welfare and Institutions Code.

11. Notwithstanding Section 3.00, for the term of the financing, the University of California may use funds appropriated in Schedule (1) for debt service 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. The university shall report to the Legislature by March 15, 2007, on the (a) amount of funds spent to support the UC-Mexico facility, including the specific use of these funds, (b) amount of funds spent to support UC-Mexico research and academic programs, and (c) different types of research conducted and programs operated at the UC-Mexico facility.
12. Of the funds provided in Schedule (1), $1,125,000 is appropriated for science and math resource centers to implement the Science and Math Teacher Initiative. The university shall report to the Legislature and the Governor by April 1, 2007, on its progress toward increasing the quality and supply of science and math teachers.
13. Of the funds appropriated in Schedule (1), $50,980,000 is to fund 5,149 additional state-supported full-time equivalent (FTE) students at the University of California, based on a marginal General Fund cost of $9,901 per additional student. This funding rate is based on a new methodology for determining the marginal cost of each additional state-supported student. This methodology calculates a total marginal cost (including operation and maintenance costs and faculty costs based on the salaries of recently hired professors) and then subtracts from this cost the fee revenue the university anticipates from each additional student (after adjusting for financial aid), in order to determine the amount of General Fund support needed from the state. It is the intent of the Legislature that enrollment growth funding provided to the university in subsequent budgets be based on this new methodology. The Legislature expects the University of California to enroll a total of 193,455 state-supported FTE students during the 2006–07 academic year. This enrollment target

does not include nonresident students and students enrolled in non-state-supported summer programs. The University of California shall report to the Legislature by March 15, 2007, on whether it has met the 2006–07 enrollment goal. For purposes of this provision, enrollment totals shall only include state-supported students. If the University of California does not meet its total state-supported enrollment goal by at least 257 (FTE) students, the Director of Finance shall revert to the General Fund by April 1, 2007, the total amount of enrollment funding associated with the total share of the enrollment goal that was not met.

14. Of the funds appropriated in Schedule (1), $480,000 shall be used to support 32 full-time equivalent students in the Program in Medical Education for the Latino Community (PRIME-LC). The primary purpose of this program is to train physicians specifically to serve in underrepresented communities. The University of California shall report to the Legislature by March 15, 2007, on (a) its progress in implementing the PRIME-LC program and (b) the use of the total funds provided for this program from both state and nonstate resources.
15. Of the funds provided in Schedule (1), $860,000 is appropriated to fund the full cost of a minimum of 65 full-time-equivalent students in entry-level clinical nursing programs and entry-level master's degree programs in nursing, and $103,000 is to support an additional 20 master's degree level nursing students. This funding is intended as a supplement to marginal cost support provided within the University of California's enrollment growth funding, in recognition of the higher costs associated with master's degree level nursing programs. The university shall report to the Legislature and the Governor by May 1, 2007, on its progress toward meeting this enrollment goal.
16. Of the funds appropriated in Schedule (1), $19,300,000 is appropriated for student academic preparation and education programs (SAPEP) and is to be matched with $12,000,000 from existing university resources, for a total of $31,300,000 for these programs. The University of California shall provide a plan to the Department of Finance and the fiscal committees of

each house of the Legislature for expenditure of both state and university funds for SAPEP by September 1, 2006. It is the intent of the Legislature that the university report on the use of state and university funds provided for these programs, including detailed information on the outcomes and effectiveness of academic preparation programs consistent with the accountability framework developed by the University of California in April 2005. It is the intent of the Legislature that the report be submitted to the fiscal committees of each house of the Legislature no later than April 1, 2007.

17. 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.
18. 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.
19. Of the funds appropriated in Schedule (1), $18,000,000 is for substance abuse research at the Neurology Department of the University of California, San Francisco.
20. Of the funds appropriated in Schedule (1), $770,000 shall be used for lupus research at the University of California, San Francisco.
21. Of the funds appropriated in Schedule (1), $1,539,000 shall be used to expand spinal cord injury research.
22. Of the funds appropriated in Schedule (1), $3,848,000 is to fund the Medical Investigation of Neurodevelopmental Disorders (MIND) Institute, including $3,500,000 for a research grants program.
23. Of the funds appropriated in Schedule (1), $6,000,000 shall be used to support research on labor and employment and labor education throughout the University of California system. Of these funds, 60 percent shall be for labor research, and 40 percent shall be for labor education.
24. Of the funds appropriated in Schedule (1), $1,000,000 is to fund research at the Institute for Experimental Research on Obesity and Diabetes.

25. It is the intent of the Legislature that the University of California report by January 15, 2007, on salary increases provided to employees for the 2006–07 academic year by employment classification, such as represented staff, nonrepresented staff, academics, and senior management, and that this report include the degree to which salary increases were consistent with the plan presented in the university's Board of Regents budget request in November 2005.
26. It is the intent of the Legislature that before changes are made to existing pension programs, the University of California report to the Legislature on how changes would affect employees by classification, such as represented staff, nonrepresented staff, academics, and senior management.
27. It is the intent of the Legislature that the University of California fundamentally reform its compensation policies and practices to more appropriately reflect its status as a public institution accountable to the State of California. It is the intent of the Legislature that the University of California submit an annual report by March 1 of each year through the 2010–11 fiscal year to the Joint Legislative Budget Committee, legislative fiscal subcommittees, and the Department of Finance on the university's progress in reforming its compensation policies and practices consistent with the recommendations of the April 2006 report of the Task Force on UC Compensation, Accountability, and Transparency, the Price Waterhouse-Coopers report, and the Bureau of State Audits' May 2, 2006, report. It is the intent of the Legislature that the fiscal subcommittees of both houses of the Legislature hold annual meetings to review this report. It is the intent of the Legislature that the report specifically include all of the following:
    (a) Consistent with the task force's recommendation on reporting, annual reports provided to the Board of Regents on total compensation for specified university senior officials, including the president, provost, senior vice presidents, vice presidents and vice provosts, associate and assistant vice presidents, university auditor, university controller, principal officers of the Board of Regents, chancellors, vice chancellors, national laboratory

directors and deputy directors, medical center CEOs, professional school deans, and the top five most highly compensated positions at the Office of the President and at each campus, medical center, and Department of Energy Laboratory. Total compensation information on employees not covered by this language is to be made available to the Legislature upon request. In its annual report of total compensation for senior officials, the university should use a standard reporting template, such as the template recommended in the April 2006 report of the task force, that lists all elements of total compensation, including base salary, benefits, and perquisites, and all other forms of compensation provided by the University of California that accrue to the individual.

(b) Plans and actions taken by the University of California to reform compensation policies and practices to ensure all of the following occurs:
  (i) Clear and appropriate policies are in place to define compensation.
  (ii) University compensation remains competitive.
  (iii) It is clear with whom the authority lies for making compensation decisions.
  (iv) Policies include specific guidance about when exceptions are appropriate, who may grant exceptions, and through which mechanisms exceptions may be granted, so that exceptions do not become the rule.
  (v) Conflicts among existing policies are eliminated.
  (vi) Mechanisms are in place to ensure compliance with newly reformed policies and to reliably impose consequences when policies are violated.

(c) Plans and actions taken by the University of California to update its human resources information system to ensure that campuses and the Office of the President are entering and capturing data in an accurate and systematically compatible manner that permits disclosure of compensation information in a full and timely way.

SEC. 47. Item 6610-001-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

6610-001-0001—For support of the California State University 2,721,322,000

Schedule:

(1) Support 2,922,108,000

(3) Reimbursements ..... −200,786,000

Provisions:

1. The appropriations made in this item are exempt from Section 31.00, 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 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, $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.
6. Of the amount provided in Schedule (1), $1,365,000 is appropriated to enhance the capacity of science and

math teacher credential programs to implement the Science and Math Teacher Initiative. Of this amount, $652,000 is one-time. The university shall report to the Legislature and the Governor by April 1, 2007, on its progress toward increasing the quality and supply of science and math teachers.

7.5. Of the amount appropriated in Schedule (1), $61,340,000 is to fund 8,490 additional state-supported full-time-equivalent students (FTES) at the California State University (CSU), based on a marginal General Fund cost of $7,225 per additional student. This funding rate is based on a new methodology for determining the marginal cost of each additional state-supported student. This methodology calculates a total marginal cost (including operation and maintenance costs and faculty costs based on the salaries of recently hired professors) and then subtracts from this cost the fee revenue the university anticipates from each additional student (after adjusting for financial aid), in order to determine the amount of General Fund support needed from the state. It is the intent of the Legislature that enrollment growth funding provided to the university in subsequent budgets be based on this new methodology. The Legislature expects CSU to enroll a total of 332,395 state-supported FTES during the 2006–07 academic year. This enrollment target does not include nonresident students and students enrolled in nonstate supported summer programs. The CSU shall provide a preliminary report to the Legislature by March 15, 2007, and a final report by May 1, 2007, on whether it has met the 2006–07 enrollment goal. For purposes of this provision, enrollment totals shall only include state-supported students. If CSU does not meet its total state-supported enrollment goal by at least 425 FTES, the Director of Finance shall revert to the General Fund by May 15, 2007, the total amount of enrollment funding associated with the total share of the enrollment goal that was not met.

8. Of the amount appropriated in Schedule (1), $560,000 is to support 280 full-time-equivalent students in entry-level master's degree programs in nursing, pursuant to Article 8 (commencing with Section 89270) of Chapter 2 of Part 55 of the Education Code. The

funding is intended as a supplement to marginal cost support provided in the California State University's enrollment growth funding, in recognition of the higher costs associated with entry-level master's degree programs in nursing.

9. Of the amount provided in Schedule (1), $1,720,000 is appropriated to fund the full cost of a minimum of 130 full-time equivalent (FTE) students in entry-level master's degree programs in nursing. The university shall report to the Legislature and the Governor by May 1, 2007, on its progress toward meeting this enrollment goal.
10. Of the amount provided in Schedule (1), $52,000,000 is provided for student academic preparation and student support services programs. The university shall provide $45,000,000 and the state shall provide $7,000,000 to support the Early Academic Assessment Program, Campus-Based Outreach 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 to the fiscal committees of each house of the Legislature no later than March 15, 2007.
12. Of the amount provided in Schedule (1), $371,000 is appropriated to support the addition of 35 full-time-equivalent students in baccalaureate degree programs in nursing in the 2006–07 academic year. The funding shall be used to support the full state cost of serving these students, at a rate of $10,588 per student. On or before May 1, 2007, the California State University shall report to the Legislature the number of additional full-time-equivalent students enrolled in these programs in the 2006–07 academic year, compared to the number enrolled in the 2005–06 academic year. In the event that the California State University enrolls fewer than the 35 additional students for which funding is provided, the funding associated with the enrollment shortfall shall revert to the General Fund. The Director of Finance shall make that reversion on or before May 15, 2007.
13. Of the amount provided in Schedule (1), $2,000,000 is appropriated on a one-time basis for startup costs associated with the expansion of nursing programs.

Specifically, the Legislature intends that these funds be used to prepare for the enrollment in the 2007–08 academic year of 340 additional undergraduate full-time-equivalent nursing students above enrollment levels in the 2006–07 academic year. The Legislature intends that these additional nursing students be funded out of the California State University's enrollment funding for the 2007–08 academic year, with additional funding to be provided to recognize the higher costs imposed by nursing students.

SEC. 48. Item 8885-295-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

8885-295-0001—For local assistance 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 for claims for costs incurred in the 2005–06 and 2006–07 fiscal years..... 232,480,000

Schedule:

(0.5) For payment of the following mandate claims for the 2005–06 fiscal year..... 90,280,000

(a) Crime Victim Rights (Ch. 411, Stats. 1995) (CSM-96-358-01)

(b) Threats Against Peace Officers (Ch. 1249, Stats. 1992, and Ch. 666, Stats. 1995) (CSM-96-365-02)

(c) Custody of Minors-Child Abduction and Recovery (Ch. 1399, Stats. 1976; Ch. 162, Stats. 1992; and Ch. 988, Stats. 1996) (CSM-4237)

(d) Stolen Vehicle Notification (Ch. 337, Stats. 1990) (CSM-4403)

(e) Absentee Ballots (Ch. 77, Stats. 1978) (CSM-3713)

(f) Permanent Absent Voters (Ch. 1422, Stats. 1982) (CSM-4358)

(g) Voter Registration Procedures (Ch. 704, Stats. 1975) (04-LM-04)

(h) Absentee Ballots-Tabulation by Precinct (Ch. 697, Stats. 1999) (00-TC-08)

(i) Brendon Maguire Act (Ch. 391, Stats. 1988) (CSM-4357)
(j) Medi-Cal Beneficiary Death Notices (Chs. 102 and 1163, Stats. 1981) (CSM-4032)
(k) Pacific Beach Safety (Ch. 961, Stats. 1992) (CSM-4432)
(*l*) Perinatal Services (Ch. 1603, Stats. 1990) (CSM-4397)
(m) AIDS/Search Warrant (Ch. 1088, Stats. 1988) (CSM-4392)
(n) Mentally Retarded Defendants Representation (Ch. 1253, Stats. 1980) (04-LM-12)
(o) Judicial Proceedings (Ch. 644, Stats. 1980) (CSM-4366)
(p) Conservatorship: Developmentally Disabled Adults (Ch. 1304, Stats. 1980) (04-LM-13)
(q) Developmentally Disabled Attorneys' Services (Ch. 694, Stats. 1975) (04-LM-03)
(r) Coroners Costs (Ch. 498, Stats. 1977) (04-LM-07)
(s) Not Guilty by Reason of Insanity (Ch. 1114, Stats. 1979) (CSM-2753)
(t) Mentally Disordered Offenders' Extended Commitments Proceedings (Ch. 435, Stats. 1991) (98-TC-09)
(u) Sexually Violent Predators (Chs. 762 and 763, Stats. 1995) (CSM-4509)
(v) Mentally Disordered Sex Offenders' Recommitments (Ch. 1036, Stats. 1978) (04-LM-09)
(w) Domestic Violence Treatment Services (Ch. 183, Stats. 1992) (CSM-96-281-01)
(x) Police Officer's Cancer Presumption (Ch. 1171, Stats. 1989) (CSM-4416)
(y) Firefighter's Cancer Presumption (Ch. 1568, Stats. 1982) (CSM-4081)
(z) Domestic Violence Arrest Policies (Ch. 246, Stats. 1995) (CSM-96-362-02)
(aa) Animal Adoption (Ch. 752, Stats. 1998) (98-TC-11)
(bb) Unitary Countywide Tax Rates (Ch. 921, Stats. 1987) (CSM-4355 and CSM-4317)
(cc) Senior Citizens Property Tax Deferral (Ch. 1242, Stats. 1977) (CSM-4359)

(dd) Allocation of Property Tax Revenues (Ch. 697, Stats. 1992) (CSM-4448)
(ee) Photographic Record of Evidence (Ch. 875, Stats. 1985) (98-TC-07)
(ff) Rape Victim Counseling (Ch. 999, Stats. 1991) (CSM-4426)
(gg) Health Benefits for Survivors of Peace Officers and Firefighters (Ch. 1120, Stats. 1996) (97-TC-25)
(hh) Postmortem Examinations (Ch. 284, Stats. 2000) (01-TC-18)
(ii) False Reports of Police Misconduct (Ch. 590, Stats. 1995) (00-TC-26)

(0.6) For payment of the mandate claims for the 2005–06 fiscal year for the Peace Officers' Procedural Bill of Rights (Ch. 675, Stats. 1990) (CSM-4499)..... 16,600,000

(1) For payment of the following mandate claims for the 2006–07 fiscal year..... 109,000,000
(a) Crime Victim Rights (Ch. 411, Stats. 1995) (CSM-96-358-01)
(b) Threats Against Peace Officers (Ch. 1249, Stats. 1992 and Ch. 666, Stats. 1995) (CSM-96-365-02)
(c) Custody of Minors-Child Abduction and Recovery (Ch. 1399, Stats. 1976; Ch. 162, Stats. 1992; and Ch. 988, Stats. 1996) (CSM-4237)
(d) Stolen Vehicle Notification (Ch. 337, Stats. 1990) (CSM-4403)
(e) Absentee Ballots (Ch. 77, Stats. 1978) (CSM-3713)
(f) Permanent Absent Voters (Ch. 1422, Stats. 1982) (CSM-4358)
(g) Voter Registration Procedures (Ch. 704, Stats. 1975) (04-LM-04)
(h) Absentee Ballots-Tabulation by Precinct (Ch. 697, Stats. 1999) (00-TC-08)
(i) Brendon Maguire Act (Ch. 391, Stats. 1988) (CSM-4357)
(j) Medi-Cal Beneficiary Death Notices (Chs. 102 and 1163, Stats. 1981) (CSM-4032)
(k) Pacific Beach Safety (Ch. 961, Stats. 1992) (CSM-4432)

(*l*) Perinatal Services (Ch. 1603, Stats. 1990) (CSM-4397)
(m) AIDS/Search Warrant (Ch. 1088, Stats. 1988) (CSM-4392)
(n) Mentally Retarded Defendants Representation (Ch. 1253, Stats. 1980) (04-LM-12)
(o) Judicial Proceedings (Ch. 644, Stats. 1980) (CSM-4366)
(p) Conservatorship: Developmentally Disabled Adults (Ch. 1304, Stats. 1980) (04-LM-13)
(q) Developmentally Disabled Attorneys' Services (Ch. 694, Stats. 1975) (04-LM-03)
(r) Coroners Costs (Ch. 498, Stats. 1977) (04-LM-07)
(s) Not Guilty by Reason of Insanity (Ch. 1114, Stats. 1979) (CSM-2753)
(t) Mentally Disordered Offenders' Extended Commitments Proceedings (Ch. 435, Stats. 1991) (98-TC-09)
(u) Sexually Violent Predators (Chs. 762 and 763, Stats. 1995) (CSM-4509)
(v) Mentally Disordered Sex Offenders' Recommitments (Ch. 1036, Stats. 1978) (04-LM-09)
(w) Domestic Violence Treatment Services (Ch. 183, Stats. 1992) (CSM-96-281-01)
(x) Police Officer's Cancer Presumption (Ch. 1171, Stats. 1989) (CSM-4416)
(y) Firefighter's Cancer Presumption (Ch. 1568, Stats. 1982) (CSM-4081)
(z) Domestic Violence Arrest Policies (Ch. 246, Stats. 1995) (CSM-96-362-02)
(aa) Animal Adoption (Ch. 752, Stats. 1998) (98-TC-11)
(bb) Unitary Countywide Tax Rates (Ch. 921, Stats. 1987) (CSM-4355 and CSM-4317)
(cc) Senior Citizens Property Tax Deferral (Ch. 1242, Stats. 1977) (CSM-4359)
(dd) Allocation of Property Tax Revenues (Ch. 697, Stats. 1992) (CSM-4448)
(ee) Photographic Record of Evidence (Ch. 875, Stats. 1985) (98-TC-07)
(ff) Rape Victim Counseling (Ch. 999, Stats. 1991) (CSM-4426)

(gg) Health Benefits for Survivors of Peace Officers and Firefighters (Ch. 1120, Stats. 1996) (97-TC-25)

(hh) Postmortem Examinations (Ch. 284, Stats. 2000) (01-TC-18)

(ii) False Reports of Police Misconduct (Ch. 590, Stats. 1995) (00-TC-26)

(2) For payment of the mandate claims for the 2006–07 fiscal year for the Peace Officers' Procedural Bill of Rights (Ch. 675, Stats. 1990) (CSM-4499)..... 16,600,000

(3) Pursuant to the provisions of Section 17581 of the Government Code, the mandates identified in the following schedule are specifically identified by the Legislature for suspension during the 2006–07 fiscal year..... 0

(a) Grand Jury Proceedings (Ch. 1170, Stats. 1996) (98-TC-27)

(b) Sex Crime Confidentiality (Ch. 502, Stats. 1992, Ch. 36, Stats. 1994, 1st Ex. Sess.) (98-TC-21)

(c) Deaf Teletype Equipment (Ch. 1032, Stats. 1980) (04-LM-11)

(d) Sex Offenders: Disclosure by Law Enforcement Officers (Chs. 908 and 909, Stats. 1996) (97-TC-15)

(e) Missing Persons Report (Ch. 1456, Stats. 1988, and Ch. 59, Stats. 1993) (CSM-4255, CSM-4484, and CSM-4368)

(f) Handicapped Voter Access Information (Ch. 494, Stats. 1979) (CSM-4363)

(g) Substandard Housing (Ch. 238, Stats. 1974) (CSM-4303)

(h) Adult Felony Restitution (Ch. 1123, Stats. 1977) (04-LM-08)

(i) Very High Fire Hazard Severity Zones (Ch. 1188, Stats. 1992) (97-TC-13)

(j) Local Coastal Plans (Ch. 1330, Stats. 1976) (CSM-4431)

(k) SIDS Training for Firefighters (Ch. 1111, Stats. 1989) (CSM-4412)

(*l*) SIDS Contacts by Local Health Officers (Ch. 268, Stats. 1991) (CSM-4424)

(m) SIDS Autopsies (Ch. 955, Stats. 1989) (CSM-4393)
(n) Inmate AIDS Testing (Ch. 1597, Stats. 1988) (CSM-4369)
(o) SIDS Notices (Ch. 453, Stats. 1974) (04-LM-01)
(p) Guardianship/Conservatorship Filings (Ch. 1357, Stats. 1976) (04-LM-15)
(q) Victims' Statements-Minors (Ch. 332, Stats. 1981) (04-LM-14)
(r) Extended Commitment, Youth Authority (Ch. 267, Stats. 1998) (98-TC-13)
(s) Prisoner Parental Rights (Ch. 820, Stats. 1991) (CSM-4427)
(t) Structural and wildland firefighter safety clothing and equipment (8 Cal. Code Regs. 3401 to 3410, incl.) (CSM-4261- 4281)
(u) Personal Alarm Devices (8 Cal. Code Regs. 3401(c)) (CSM-4087)
(v) Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993) (97-TC-07)
(w) Elder Abuse, Law Enforcement Training (Ch. 444, Stats. 1997) (98-TC-12)
(x) Redevelopment Agencies Tax Disbursement Reporting (Ch. 39, Stats. 1998) (99-TC-06)
(y) Mandate Reimbursement Process (Ch. 486, Stats. 1975) (CSM- 4204, CSM-4485)
(z) Filipino Employee Surveys (Ch. 845, Stats. 1978) (CSM-2142)
(aa) Domestic Violence Information (Ch. 1609, Stats. 1984) (CSM-4222)
(bb) Pocket Masks (Ch. 1334, Stats. 1987) (CSM-4291)

Provisions:

1. If the amount in Schedule (0.5) is insufficient to pay claims for costs incurred to carry out the cited state mandates in the 2005–06 fiscal year, the Controller shall notify the Director of Finance of the amount of the deficiency and, with the approval of the director, shall augment the amount in Schedule (0.5) from the unencumbered balance of Schedule (1) to pay those claims. If the Controller determines that excess funds will remain available from Schedule (0.5) after all claims for the 2005–06 fiscal year are paid, then the

Controller, with the approval of the director, may augment the amount in Schedule (1) from the unencumbered balance of the amount provided in Schedule (0.5). The director shall notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in both houses of the Legislature prior to authorizing any augmentation pursuant to this 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. The funds appropriated in this item shall be allocated only for the payment of claims as required by Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code, and that payment shall be made pursuant to Article 5 (commencing with Section 17615) of that chapter. Notwithstanding any other provision of law, interest shall be paid from funds appropriated in this item only to the extent, and in the amount, authorized by Section 17561.5 of the Government Code.
3. The State Controller shall offset payments made from the appropriation in this item and in Item 8885-299-0001 to recoup the amount of any unallowable mandate claim costs determined by desk or field audits of such claims. The estimated amount of General Fund savings from prior year adjustments due to these offsets is at least $44,000,000.

SEC. 49. Item 8885-299-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

8885-299-0001—For local assistance 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..... 169,900,000

Schedule:

(1) For the first year of payment of mandate claims filed prior to July 1, 2004..... 83,000,000

(2) For the second year of payment of mandate claims filed prior to July 1, 2004.... 86,900,000

Provisions:

1. 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. The funds appropriated in this item shall be allocated only for the payment of claims as required by Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code, that shall be made pursuant to Article 5 (commencing with Section 17615) of that chapter. Notwithstanding any other provision of law, interest shall be paid from funds appropriated in this item only to the extent, and in the amount, authorized by Section 17561.5 of the Government Code.

SEC. 50. Item 8955-001-0083 of Section 2.00 of the Budget Act of 2006 is amended to read:

8955-001-0083—For support of Department of Veterans Affairs, for payment to Item 8955-001-0001, payable from the Veterans Service Office Fund..... 50,000

SEC. 51. Item 9210-101-0001 of Section 2.00 of the Budget Act of 2006 is amended to read:

9210-101-0001—For local assistance, Local Government Financing..... 238,000,000

Provisions:

1. For allocation by the Controller to local jurisdictions for public safety as determined by the Director of Finance pursuant to Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of the Government Code.
2. Notwithstanding any other provision of law, the funds appropriated in this item shall be available for expenditure until June 30, 2008. These funds shall be used to supplement and not supplant existing services.

SEC. 52. Item 9210-105-0001 is added to Section 2.00 of the Budget Act of 2006, to read:

9210-105-0001—For local assistance, Local Government Financing..... 35,000,000

Provisions:

1. For reimbursement of actual costs incurred by cities and other entities for payment of booking or processing fees charged pursuant to subdivision (a) of Section 29550 of the Government Code during the 2005–06 fiscal year. Any funds not disbursed shall revert to the General Fund no later than June 30, 2007.
2. No later than December 1, 2006, the Controller shall allocate the funds appropriated in this item to all eligible cities and other entities, and shall certify to the Director of Finance the actual amount of money allocated for the payment of booking and processing fees, as described in Section 29550 of the Government Code. Any city or other entity that applies for funding pursuant to this item shall comply with all requests made by the Controller.
3. The Controller shall reduce payments proportionally if the amount appropriated in this item is not sufficient to pay all valid claims in full.

SEC. 53. Item 9619-399-0001 of Section 2.00 of the Budget Act of 2006 is repealed.

SEC. 54. Section 35.50 of the Budget Act of 2006 is amended to read:

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 2006–07 fiscal year pursuant to this act, as passed by the Legislature, is $103,412,200,000.

(c) For purposes of subdivision (b) of Section 20 of Article XVI of the California Constitution, General Fund revenues shall be defined as revenues and transfers, excluding any proceeds from Economic Recovery Bonds, as estimated in the enacted State Budget.

SEC. 55. Sections 1 to 54, inclusive, of this act shall become operative only if the Budget Act of 2006, Assembly Bill 1801, as proposed by Conference Report No. 1 on June 12, 2006, is enacted and becomes effective on or before January 1, 2007.

SEC. 56. 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 for the support of the government of the State of California and for several public purposes for the 2006–07 fiscal year. It is imperative that these appropriations be made effective as soon as possible. It is therefore necessary that this act go into immediate effect.

CHAPTER 49

An act to amend, add, and repeal Section 13305 of the Government Code, to amend Section 12975.9 of the Insurance Code, and to amend Sections 6248, 7204.3, 7273, and 17052.2 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

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

SECTION 1. Section 13305 of the Government Code is amended to read:

13305. The department shall provide an annual report to the Legislature on tax expenditures. The report shall include each of the following:

(a) A comprehensive list of tax expenditures.

(b) Additional detail on individual categories of tax expenditures.

(c) Historical information on the enactment and repeal of tax expenditures.

(d) This section shall remain in effect only until January 1, 2007, and as of that date, is repealed.

SEC. 2. Section 13305 is added to the Government Code, to read:

13305. (a) The department shall provide an annual report to the Legislature on tax expenditures by no later than September 15 of each year. The report shall include each of the following:

(1) A comprehensive list of tax expenditures exceeding five million dollars ($5,000,000) in annual cost.

(2) The statutory authority for each credit, deduction, exclusion, exemption, or any other tax benefit as provided by state law.

(3) A description of the legislative intent for each tax expenditure, if the act adding or amending the expenditure contains legislative findings and declarations of that intent, or that legislative intent is otherwise expressed or specified by that act.

(4) The sunset date of each credit, deduction, exclusion, exemption, or any other tax benefit as provided by state law, if applicable.

(5) A brief description of the beneficiaries of the credit, deduction, exclusion, exemption, or other tax benefit as provided by state law.

(6) An estimate or range of estimates for the state and local revenue loss for the current fiscal year and the two subsequent fiscal years. For sales and use tax expenditures, this would include partial year exemptions and all other tax expenditures when the State Board of Equalization has obtained that information.

(7) For personal income tax expenditures, the number of taxpayers affected and returns filed, as applicable, for the most recent tax year for which full year data is available.

(8) For corporation tax and sales and use tax expenditures, the number of returns filed or business entities affected, as applicable, for the most recent tax year for which full year data is available.

(9) A listing of any comparable federal tax benefit, if any.

(10) A description of any tax expenditure evaluation or compilation of information completed by any state agency since the last report made under this section.

(b) For purposes of this section, “tax expenditure” means a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state.

(c) This section shall become operative on January 1, 2007.

SEC. 3. Section 12975.9 of the Insurance Code is amended 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, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2009, deletes or extends that date.

SEC. 4. Section 6248 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 226 of the Statutes of 2004, is amended to read:

6248. (a) On and after the effective date of this section there shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this state, and which is brought into California within 12 months from the date of its purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occur:

(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.

(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.

(3) In the case of a vessel or aircraft, that vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.

(4) The vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.

(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of registration of that vehicle, vessel, or aircraft, with the proper authority, outside of this state.

(c) This section does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.

(d) The amendments made to this section by the act adding this subdivision do not apply to any vehicle, vessel, or aircraft that is either purchased, or is the subject of a binding purchase contract that is entered into, on or before the operative date of this subdivision.

(e) (1) Notwithstanding subdivision (a), aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state.

(2) This subdivision does not apply if, during the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an airplane or 25 hours of sailing time in the case of a vessel are logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by an authorized agent operating the aircraft or vessel on behalf of the registered owner

of the aircraft or vessel. The calculation of airtime or sailing time logged on the aircraft or vessel does not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

(3) This subdivision applies to aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification on or after the operative date of this subdivision.

(f) The amendments made by Section 2 of Chapter 226 of the Statues of 2004 adding this subdivision shall become operative on October 1, 2004.

(g) The Legislative Analyst's Office shall conduct a study of the economic impacts of the amendments made to this section by the act adding this subdivision, and shall report its findings to the Legislature on or before June 30, 2006.

(h) This section shall remain in effect only until and including June 30, 2007, and as of July 1, 2007, is repealed.

SEC. 5. Section 6248 of the Revenue and Taxation Code, as added by Section 3 of Chapter 226 of the Statutes of 2004, is amended to read:

6248. (a) On and after July 1, 2007, there shall be a rebuttable presumption that any vehicle bought outside of this state which is brought into California within 90 days from the date of its purchase, and which is subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, was acquired for storage, use, or other consumption in this state.

(b) This section shall become operative on July 1, 2007.

SEC. 6. Section 7204.3 of the Revenue and Taxation Code is amended to read:

7204.3. The board shall charge a city, city and county, redevelopment agency, or county an amount for the board's services in administering the sales and use tax ordinance of the local entity, as determined by the board with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 2006–07 fiscal year, the amount charged each local entity shall be based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act."

(1) The amount charged may be adjusted in the current fiscal year to reflect the difference between the board's budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the adjustment.

(2) The amount charged each district shall be adjusted to reflect the difference between the board's recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for the city, city and county, redevelopment agency, or county.

SEC. 7. Section 7273 of the Revenue and Taxation Code is amended to read:

7273. In addition to the amounts otherwise provided for preparatory costs, the board shall charge each district an amount for the board's services in administering the transactions and use tax determined by the board, with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 2006–07 fiscal year, the amount charged all districts shall be based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act." The amount charged each district shall be based upon the district's proportional share of the revenue after weighting the revenue to equalize the differences in district tax rates.

(1) The amount charged each district may be adjusted in the current fiscal year to reflect the difference between the board's budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the adjustment.

(2) The amount charged shall be adjusted to reflect the difference between the board's recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The board shall, by June 1 of each year, notify districts of the amount that it anticipates will be assessed for the next fiscal year. The districts shall be notified of the actual amounts that will be assessed within 30 days after enactment of the Budget Act for that fiscal year.

(c) The amount charged a district that becomes operative during the fiscal year shall be estimated for that fiscal year based on weighted revenue.

(d) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for a given district.

SEC. 8. Section 17052.2 of the Revenue and Taxation Code is amended to read:

17052.2. (a) For each taxable year beginning on or after January 1, 2000, and before January 1, 2002, for each taxable year beginning on

or after January 1, 2003, and before January 1, 2004, and for each taxable year beginning on and after January 1, 2007, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) to a credentialed teacher an amount equal to the amount determined in subdivision (b).

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

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

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

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

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

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

(E) For purposes of determining years of service, years of service performed as a teacher in a qualifying educational institution, that otherwise meets the criteria specified in paragraph (2) of subdivision (c) except that the qualifying educational institution is not located in this state, in another state shall qualify for each year the teacher was credentialed by the public education agency in that state.

(2) Fifty percent of the amount determined as follows:

(A) Divide the amount received by the taxpayer as wages and salary for services as a credentialed teacher, as defined in paragraph (3) of subdivision (c), by the taxpayer's total adjusted gross income from all sources.

(B) Multiply the taxpayer's total tax, as defined in paragraph (4) of subdivision (c), by a ratio, not to exceed 1.00, that is otherwise equal to the ratio determined for the taxpayer under subparagraph (A).

(c) For purposes of this section, all of the following definitions apply:

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

(2) "Qualifying educational institution" means any elementary, secondary, or vocational-technical school located in this state providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof. "Qualifying educational institution" includes an agency or instrumentality of the federal government providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof, at any location within this state,

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

(3) "Wages and salaries for services as a credentialed teacher" includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(4) "Total tax" means the tax imposed under this part for the taxable year, before the application under Section 19007 of any payment of estimated tax or any installment thereof, less all credits allowed for the taxable year except for the following:

(A) The credit allowed under this section.

(B) The credit allowed under Section 17061 (relating to refunds under the Unemployment Insurance Code).

(C) The credit allowed under Section 19002 (relating to tax withholding).

(D) Any refundable credit that is allowed under this part.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to implement the Budget Act of 2006, it is necessary that this act go into immediate effect.

CHAPTER 50

An act to amend Sections 41329.50, 41329.51, 41329.52, 41329.55, and 71093 of, to add Sections 41329.58 and 41329.59 to, and to add Article 5 (commencing with Section 74292) to Chapter 5 of Part 46 of, the Education Code, and to amend Section 63049.67 of the Government Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

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

SECTION 1. With respect to the general background and intent of the act that adds this section, the Legislature finds and declares all of the following:

(a) Accreditation is a means for ensuring the academic quality and accountability for the colleges in the California Community College system. Additionally, students of the California Community Colleges must attend an accredited community college in order to participate in federal financial assistance programs.

(b) All colleges within the California Community Colleges system should be accredited by the recognized regional accrediting association serving California.

(c) The loss of accreditation by a college of the California Community Colleges presents a severe burden for the students of that college and for the residents of the community served by that college. Neither the students nor the residents should be deprived of educational opportunities due to the loss of accreditation by a community college.

(d) The Legislature finds that a California community college district whose colleges have lost accreditation presents the state with financial and educational emergencies and that extraordinary measures are required to address those emergencies.

(e) The Accrediting Commission for Community and Junior Colleges has found that Compton Community College does not meet accreditation standards, and has decided to withdraw accreditation. That decision may become effective on or before June 30, 2006. It is in the public interest to provide services through an accredited college to the persons adversely affected by the loss of accreditation by Compton Community College. Accordingly, it is the intent of the Legislature to provide for uninterrupted educational opportunities through another accredited community college for the students who currently attend the Compton Community College District and to provide continued meaningful access to that educational opportunity within the California Community College system to the residents of the Compton Community College District.

(f) In order to provide for continuing educational opportunities through an accredited college for the residents of the Compton Community College District and for the preservation of federal funding for students of the Compton Community College District, extraordinary legislative measures are required.

SEC. 2. With respect to meeting the needs of current students and residents of the Compton Community College District, the Legislature finds and declares all of the following:

(a) The appropriate way to provide for immediate continuing educational opportunities to the students and residents of the Compton Community College District is for the Compton Community College District to identify another community college district that is willing to serve as a partner and provide accredited educational and related administrative and support services using the facilities of the Compton Community College District as an educational center in that area. Those educational and support services should include offering a full range of credit courses leading to an associate degree for Compton students, making provisions for continuing or accelerating educational offerings for current Compton Community College students who are close to graduating, providing special counseling services to assist Compton Community College students who are considering transferring to other community colleges or baccalaureate institutions, and meeting the transitional needs of significant numbers of students who previously attended the Compton Community College District.

(b) Although uninterrupted service to existing students is the highest priority, a critically important measure of ongoing educational success in the Compton area will be the extent to which the community college system is able to identify problems that lead to the loss of accreditation and to construct a recovery plan to address those problems. In the near future, significant efforts must be made to determine the needs and desires of students served by the elementary and secondary schools within the Compton Community College District and to formulate long-term success strategies for them within the California Community College system.

(c) The Compton Community College District will require enhanced state assistance and resources in order to address the issues that led to loss of accreditation and to contract for continued educational and support services for the students and residents of the Compton Community College District. The Board of Governors of the California Community Colleges will also require additional resources to oversee federally required actions resulting from the loss of accreditation and to support the educational recovery efforts.

(d) The Compton Community College District will also have responsibilities related to its loss of accreditation, including, but not limited to, actions mandated by federal authorities for reconciling student financial assistance programs. The Compton Community College District must also continue to support the efforts of the partner district to provide the services described in this act. The Board of Governors of the California Community Colleges must be authorized to continue its oversight role of the Compton Community College District to ensure that these transitional responsibilities are met.

(e) Because of circumstances beyond the control of the state, there may be a period of time before the partner district is authorized to distribute federal financial assistance to Compton students. Should this occur, state resources should be available to replace federal funding so as to allow affected students to complete the academic term they began before federal funding became unavailable.

SEC. 3. With respect to financing the activities described in this act, the Legislature finds and declares all of the following:

(a) The Legislature must provide fiscal support to the Compton Community College District to maximize its efforts to contract for educational services and to provide stability for the students and residents of the Compton Community College District.

(b) It is not possible to identify all actions that may be required to give effect to this bill or the expenses related to those actions.

(c) The Compton Community College District should also have access to existing emergency funding resources.

SEC. 4. Section 41329.50 of the Education Code is amended to read:

41329.50. The following definitions apply to this article, and, except as provided in subdivision (d), apply to Article 2 (commencing with Section 41320) and Article 2.5 (commencing with Section 41325), unless the context clearly indicates or requires another or different meaning:

(a) "Bank" means the California Infrastructure and Economic Development Bank.

(b) "Bonds" has the same meaning specified in Section 63010 of the Government Code.

(c) "Loan" and "emergency apportionments" means the financing described in Sections 41329.51, 41329.52, and 41329.53. The financing does not constitute a borrowing, but, instead, constitutes an advance payment of apportionments subject to repayment with interest as described in the article.

(d) "School district" means a school district that requests an emergency apportionment pursuant to Section 41320, including an administrator appointed pursuant to Article 2 (commencing with Section 41320) and a trustee appointed pursuant to Article 2.5 (commencing with Section 41325), or, for the purposes of this article only, a community college district, including a special trustee appointed pursuant to Section 71093 or 84040.

SEC. 5. Section 41329.51 of the Education Code is amended to read:

41329.51. Notwithstanding any other law, an emergency apportionment is a financing provided to a community college district as authorized by the Legislature or to a school district, other than a community college district, complying with the requirements contained in Article 2 (commencing with Section 41320) and Article 2.5

(commencing with Section 41325). The emergency apportionment shall be made pursuant to either Section 41329.52 or Section 41329.53, as determined by statute. The school district, the bank, and the Superintendent of Public Instruction, or the Board of Governors of the California Community Colleges, as appropriate, shall promptly perform the duties specified in the statute making the emergency apportionment.

SEC. 6. Section 41329.52 of the Education Code is amended to read:

41329.52. (a) A school district may receive a two-part financing designed to provide an advance of apportionments owed to the district from the State School Fund.

(b) The initial emergency apportionment shall be an interim loan from the General Fund to the school district. General Fund money shall not be advanced to a school district until that district agrees to obtain a lease financing as described in subdivision (c) and the bank adopts a reimbursement resolution governing the lease financing. The interim loan shall be repaid in full, with interest, from the proceeds of the lease financing pursuant to subdivision (c) at a time mutually agreed upon between the Department of Finance and the bank. The interest rate on the interim loan shall be the rate earned by moneys in the Pooled Money Investment Account as of the date of the initial disbursement of emergency apportionments to the school district.

(c) The school district shall enter into a lease financing with the bank for the purpose of financing the emergency apportionment, including a repayment to the General Fund of the amount advanced pursuant to subdivision (b). In addition to the emergency apportionment, the lease financing may include funds necessary for reserves, capitalized interest, credit enhancements and costs of issuance. The bank shall issue bonds for that purpose pursuant to the powers granted pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act as set forth in Division 1 (commencing with Section 63000) of Part 6.7 of the Government Code. The term of the lease shall not exceed 20 years, except that if at the end of the lease term any rent payable is not fully paid, or if the rent payable has been abated, the term of the lease shall be extended for a period not to exceed 10 years.

SEC. 7. Section 41329.55 of the Education Code is amended to read:

41329.55. (a) Simultaneous with the execution of the lease financing authorized pursuant to Section 41329.52, the bank shall provide to the Controller and the school district a notification of its lease financing. The notice shall include a schedule of rent payments to become due to the bank from the school district and the bond trustee. The Controller shall make the apportionment to the bond trustee of those amounts on the dates shown on the schedule. The bank may further authorize the apportionments to be used to pay or reimburse the provider of any credit

enhancement of bonds and other ongoing or periodic ancillary costs of the bond financing issued by the bank in connection with this article. If the amount of rent payments vary from the schedule as a result of variable interest rates on the bonds, early redemptions, or changes in expenses, the bank shall amend or supplement the schedule accordingly.

(b) Except where financing is for a community college district, the Controller shall make the apportionment only from moneys in Section A of the State School Fund designated for apportionment to the district and any apportionment authorized pursuant to this subdivision shall constitute a lien senior to any other apportionment or payment of State School Fund moneys to or for that district not made pursuant to this subdivision.

(c) If financing is for the Compton Community College District, the Controller shall make the apportionment only from moneys in Section B of the State School Fund. Any apportionment authorized pursuant to this subdivision shall constitute a lien senior to any other apportionment or payment of Section B State School Fund moneys.

(d) The amount apportioned for a school district pursuant to this section is an allocation to the district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution. For purposes of computing revenue limits pursuant to Section 42238 for any school district, the revenue limit for any fiscal year in which funds are apportioned for the district pursuant to this section shall include any amounts apportioned by the Controller pursuant to subdivisions (a), (b), and (c), as well as Section 41329.57.

(e) No party, including the school district or any of its creditors, shall have any claim to the money apportioned or to be apportioned to the bond trustee by the Controller pursuant to this section.

SEC. 8. Section 41329.58 is added to the Education Code, to read:

41329.58. The sum of thirty million dollars ($30,000,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the Board of Governors of the California Community Colleges for apportionment to the Compton Community College District as an emergency apportionment to finance, among other things, the activities described in Article 5 (commencing with Section 74292) of Chapter 5 of Part 46.

SEC. 9. Section 41329.59 is added to the Education Code, to read:

41329.59. (a) On or before October 30, 2006, the Fiscal Crisis and Management Assistance Team (FCMAT) shall conduct an extraordinary audit of the Compton Community College District, to be delivered to the Board of Governors of the California Community Colleges and the Director of Finance, focused upon an examination of alleged fraud,

misappropriation of funds, or other illegal fiscal practices. The audit shall be conducted in a timely and efficient manner.

(b) On or before January 31, 2007, the FCMAT shall conduct a comprehensive assessment and prepare a recovery plan, to be delivered to the Board of Governors of the California Community Colleges and the Department of Finance, for the Compton Community College District addressing the five operational areas: financial management, academic achievement, personnel management, facilities management, and governance/community relations.

(c) The FCMAT shall file a written status report at regular intervals with the appropriate fiscal and policy committees of the Legislature, the advisory committee to the special trustee, the Board of Governors of the California Community Colleges, the Director of Finance, and the Secretary for Education. The status reports shall include the progress that the Compton Community College District is making in meeting the recommendations of the FCMAT comprehensive assessment and addressing the deficiencies identified by the Accrediting Commission for Community and Junior Colleges.

(d) Notwithstanding any other provision of law, an amount of up to five hundred thousand dollars ($500,000) shall be provided to the Compton Community College District from any funds budgeted for FCMAT in Item 6110-107-0001 of Section 2.00 of the annual Budget Act or any other funds available from prior budget years for FCMAT for the purpose of funding the audit described in subdivision (a) of this section.

SEC. 10. Section 71093 of the Education Code is amended to read:

71093. Notwithstanding any other provision of law:

(a) The board of governors may authorize the chancellor to suspend the authority of the Board of Trustees of the Compton Community College District, or of any of the members of that board, to exercise any powers or responsibilities or to take any official actions with respect to the management of the district, including any of the district's assets, contracts, expenditures, facilities, funds, personnel, or property. The board of governors may authorize suspension for a period up to five years from the effective date of Assembly Bill 318 of the 2005–06 Regular Session, plus a period lasting until the chancellor, the Fiscal Crisis and Management Assistance Team, the Director of Finance, and the Secretary for Education concur with the special trustee that the district has, for two consecutive academic years, met the requirements of the comprehensive assessment conducted, and the recovery plan prepared, pursuant to Section 41329.59.

(b) A suspension authorized by this section becomes effective immediately upon the delivery of a document to the administrative offices

of the Compton Community College District that sets forth the finding of the chancellor that a suspension pursuant to this section is necessary for the establishment of fiscal integrity and security in that district.

(c) (1) If and when the chancellor suspends the authority of the Board of Trustees of the Compton Community College District or any of its members pursuant to this section, the chancellor may appoint a special trustee as provided in paragraph (3) of subdivision (c) of Section 84040, at district expense, to manage the district. The chancellor is authorized to assume, and delegate to the special trustee, those powers and duties of the Board of Trustees of the Compton Community College District that the chancellor determines, with the approval of the board of governors, are necessary for the management of that district. The Board of Trustees of the Compton Community College District may not exercise any of the duties or powers assumed by the chancellor under this section.

(2) The chancellor may appoint as a special trustee under this section a person who has served in a similar capacity prior to the enactment of the act that adds this section. A special trustee appointed under this section shall serve at the pleasure of the chancellor.

(3) Notwithstanding any other provision of law, in order to facilitate the appointment of the special trustee, the chancellor is exempt, for the purposes of this section, from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contract Code.

(d) Notwithstanding any other provision of law, at any time that this section is in effect, the chancellor is authorized to assume, and delegate to the special trustee, those powers and duties of the Compton Community College District Personnel Commission that the chancellor determines are necessary for the management of the personnel functions of the Compton Community College District. The personnel commission may not exercise any of the powers or duties assumed by the chancellor.

(e) Notwithstanding any other provision of law, if the special trustee has been a member of the State Teachers' Retirement System or the Public Employees' Retirement System at any time prior to appointment, he or she shall, for the period of service as special trustee, be a member of the system to which he or she belonged, unless the special trustee elects, in writing, not to be a member. If the special trustee chooses to be a member, the special trustee shall be placed on the payroll of the district, or the payroll of another local education agency or other entity with which the district has an exchange agreement pursuant to Section 87422 or other applicable provisions of law, for the purpose of providing appropriate contributions to the applicable retirement system.

(f) The special trustee appointed pursuant to this section is authorized to do all of the following:

(1) Implement substantial changes in the fiscal policies and practices of the Compton Community College District.

(2) Revise the academic program of the Compton Community College District to reflect realistic income projections in response to the dramatic effect of the changes in fiscal policies and practices upon program quality.

(3) Encourage all members of the college community to accept a fair share of the burden of the full recovery of the Compton Community College District in the five operational areas of finance, academics, personnel facilities, and governance.

(4) Enter into agreements on behalf of the Compton Community College District and, subject to any contractual and statutory obligation of the Compton Community College District, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plan. Any agreement authorized by this section shall be binding upon the district for the term of the agreement, notwithstanding the removal of the special trustee for any reason or the reinstatement of any powers or responsibilities of the board of trustees. No agreement authorized by this paragraph shall materially impair the security and other interests of the holders of any bonds issued pursuant to Article 9 (commencing with Section 63049.67) of Chapter 2 of Division 1 of Title 6.7 of the Government Code.

(5) Appoint an advisory committee to advise the special trustee with respect to the management of the Compton Community College District and the establishment and implementation of the arrangements for provision of services by a partner district pursuant to Article 5 (commencing with Section 74292) of Chapter 5 of Part 46. This advisory committee may include residents of the communities served by the Compton Community College District, and any outside experts deemed appropriate by the special trustee. No member of the advisory committee shall receive any compensation or benefits for his or her services as a member of the advisory committee.

(g) In the event of a vacancy in the special trustee position, the chancellor shall temporarily assume all of the powers and duties of the special trustee until another special trustee can be appointed pursuant to this section.

SEC. 11. Article 5 (commencing with Section 74292) is added to Chapter 5 of Part 46 of the Education Code, to read:

Article 5. Continuing Services If Compton Community College Loses Accreditation

74292. Notwithstanding any other provision of law, the following steps shall be taken to address the imminent risk that Compton Community College's accreditation will be terminated by the regional accrediting body recognized by the Board of Governors of the California Community Colleges:

(a) The Chancellor of the California Community Colleges is authorized to oversee all actions at the Compton Community College District related to the loss of the college's accreditation and efforts described in this article to address that situation. The Compton Community College District shall reimburse the Board of Governors of the California Community Colleges for any expenses incurred by the chancellor or his or her staff in carrying out this oversight responsibility.

(b) The Compton Community College District shall complete the provision of instruction for all classes for which it intends to claim apportionment prior to the date of its loss of accreditation.

(c) Notwithstanding any other provision of law, the Compton Community College District shall continue to be eligible to receive state funding as provided in this article even if its accreditation is terminated.

(d) (1) The Compton Community College District shall identify a partner district that will agree to provide accredited instructional programs to students residing in the Compton Community College District. The special trustee assigned to the Compton Community College District pursuant to Section 71093 and the partner district are authorized to enter into one or more agreements to provide instructional services or other services, and to make any other necessary preparations to implement the educational programs described in this article, as well as any related necessary administrative or support services, in a timely manner so as to ensure that services to Compton Community College students will not be interrupted and that those students will remain eligible for federal financial assistance. The agreement or agreements shall provide that the partner district is entitled to receive a reasonable administrative fee to be fixed by the mutual agreement of the parties.

(2) The partner district shall be a district in good standing with the Accrediting Commission for Community and Junior Colleges (ACCJC), and shall have successfully completed the accreditation cycle and secured accreditation for its colleges. A district with a college that is on warning, probation, or show-cause status with the ACCJC, or that is being monitored for fiscal stability by the chancellor's office is not considered a district in good standing for the purposes of this article.

(e) The partner district may offer any programs or courses for which it has secured applicable approvals. In addition, any programs and courses that were previously approved by the board of governors to be offered by the Compton Community College District may continue to be offered by the partner district in the territory of the Compton Community College District without additional state approval until June 30, 2011.

(f) No later than 30 days after Compton Community College's loss of accreditation, the board of governors shall approve the facilities of Compton Community College as an off-campus educational center of the partner district. The center shall be known as the Compton Community Educational Center. The board of governors shall give notice of its approval to the county committee and county superintendent having jurisdiction over any territory affected by the action.

(g) The board of governors may permanently or temporarily waive any of its regulatory requirements necessary to effectuate this article, including, but not necessarily limited to, its regulations regarding educational centers.

(h) The partner district is eligible to provide instruction at the center without the recommendation of the California Postsecondary Education Commission under Section 66904 until the district secures the commission's recommendation for the facility to operate as an off-campus educational center or until June 30, 2011, whichever occurs first.

(i) The partner district shall comply with all federal requirements to ensure that students taking classes offered by the partner district at the Compton Community Educational Center remain eligible for federal financial assistance.

(j) Students enrolled in the Compton Community College District as of January 31, 2006, shall be subject to the following conditions:

(1) The partner district shall ensure that any student who, by the end of the Spring 2006 term, has completed at least 75 percent of the courses required for the degree or certificate he or she is pursuing will be able to complete that program. Every reasonable effort shall be made to allow other students who have begun work toward a certificate or degree, but who have not completed 75 percent of the required coursework, to continue and complete their programs.

(2) Students enrolling in classes provided by the partner district pursuant to this section shall be considered students of the partner district, shall receive credit from the partner district for classes they successfully complete, shall receive certificates or degrees they earn from the partner district, and shall receive financial aid through the partner district if they meet all applicable eligibility requirements.

(3) The partner district shall maintain student records related to the attendance of students in classes it offers pursuant to this section in accordance with all applicable state and federal laws.

(4) The partner district shall consider each student who enrolls for classes no later than the Spring 2007 term to be a continuing student for purposes of enrollment priorities.

(5) Any regulations of the board of governors relating to minimum residence at the college granting a degree shall not be applicable.

(k) The board of governors shall adopt any regulations necessary to implement this article. These regulations may be adopted as emergency regulations that may remain in effect for up to one year from the date of adoption, and shall not be subject to paragraph (5) or (6) of subdivision (a) of Section 70901.5 or to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(*l*) (1) The partner district shall provide the services described in this article for a minimum of five years from the date those services commence pursuant to subdivision (d), and shall thereafter provide the services for any additional period determined necessary by the board of governors. In addition, the board of governors may require, in its sole discretion, that the services described herein be modified or terminated at an earlier date based on the best interests of the California Community Colleges system and its students.

(2) Notwithstanding paragraph (1), either the partner district or the special trustee appointed pursuant to Section 71093 may initiate termination of the agreements described in subdivision (d) by giving 180 days' written notice to the other party and to the board of governors. No termination pursuant to this subdivision may take effect until the end of the semester following the notice provided under this paragraph, so as to protect students from a mid-term interruption of educational services. Should the partner district provide notice of a desire to terminate any agreements at a time when the trustee determines that services provided under those agreements are still necessary to serve the interests of Compton students and residents or at a time when the Compton Community College District is not fully accredited and bonds issued pursuant to Section 41329.52 are outstanding, the partner district shall continue the services until it can secure a district to provide uninterrupted comparable services to the satisfaction of the special trustee.

(m) (1) The Compton Community College District shall continue to be responsible for ensuring that all of its permanent records are retained and stored as required by state law and that all records related to its administration of programs under Title IV of the federal Higher Education Act are retained for a minimum of three years after the conclusion of its participation in those programs.

(2) The Compton Community College District shall be responsible for institutional actions related to the loss of accreditation, including actions that are required under Section 688.26 of Title 34 of the Code of Federal Regulations, related to the ending of the participation of the Compton Community College District in programs under Title IV of the federal Higher Education Act, refunding any students' unearned tuition and fees, refunding to the federal government any unexpended federal student financial aid funds, returning to lenders any loan proceeds not distributed to students, or the collection of outstanding student debts to the Compton Community College District.

(n) In addition to addressing the ongoing educational needs of the students of the Compton Community College District, the partner district and the special trustee appointed pursuant to Section 71093 shall take steps aimed at achieving the goal of seeking renewed accreditation for Compton Community College at the earliest feasible date. Progress toward achieving this goal shall be periodically reported to the board of governors.

(o) No person, firm or organization shall, without the permission of the Compton Community College District, use the name "Compton Community College," or any name of which these words are a part, or any abbreviation thereof.

74292.5. Notwithstanding any other provision of law, so long as any bond issued pursuant to Section 63049.67 of the Government Code for the Compton Community College District is outstanding, all real property leases securing those bonds shall be leased by the Compton Community College District, and not the Compton Community Educational Center or any partner district.

74292.7. Cal Grant awards to students of the Compton Community College District shall not be adversely affected by this article.

74293. Notwithstanding any other provision of law:

(a) The partner district shall provide educational programs, as described in Section 74292, at the Compton Community Educational Center on the following terms:

(1) To the extent determined necessary by agreement between the Compton Community College District and the partner district, the Compton Community College District shall assign its current employees, or reemploy former employees, to provide educational or support services to students under the instructional services or other agreements described in Section 74292. The Compton Community College District has no obligation to assign or to reemploy persons who occupy or previously occupied administrative or supervisory positions to those positions. Notwithstanding any other provision of law, a person who provides services pursuant to this paragraph shall not be deemed to be an employee

of the partner district or gain any status with the partner district for any purpose.

(2) Individuals providing educational or support services pursuant to paragraph (1) who serve as academic employees or educational administrators shall meet applicable minimum qualifications established by the Board of Governors of the California Community Colleges as well as any other job-related qualifications for service that are established by the partner district.

(3) The partner district shall have the primary right to direct activities under the contract or contracts in a manner that is consistent with the role of Compton Community College District as the employer of the individuals who are assigned duties under the agreements by the partner district. The partner district shall provide performance assessments to the special trustee appointed pursuant to Section 71093 regarding the services provided by employees of the Compton Community College District.

(b) Nothing in this section shall be construed to limit the ability of the Compton Community College District to employ employees of any type or class as otherwise authorized by law as needed to provide necessary services.

(c) The Compton Community College District shall continue to be responsible for all retiree benefits that it offered its employees prior to the date of its loss of accreditation and for retirement and other benefits for its employees assigned to provide services pursuant to subdivision (a). The partner district shall have no responsibility for any retiree or other benefits for persons provided by the Compton Community College District to serve under instructional services or other agreements described in this article.

(d) Nothing in this section shall be construed to limit the ability of the partner district to assign its existing personnel to oversee or manage services provided under instructional services or other agreements described in Section 74292 or to employ employees of any type or class as otherwise authorized by law as needed to provide oversight and management of those services. Any person who provides services pursuant to this subdivision shall not be deemed to be an employee of the Compton Community College District or gain any status with that district for any purpose, and that person shall not lose any rights, benefits, or status that he or she had previously acquired with the partner district.

(e) Nothing in this article shall be construed to interfere with, or require any change in, the existing bargaining units and collective bargaining agreements of the Compton Community College District.

(f) All existing statutory due process protections for employees of the Compton Community College District shall remain in effect

including, but not necessarily limited to, the provisions governing layoff or dismissal, acquisition of tenure, and all other provisions of the Education Code except as expressly provided in this article.

(g) Nothing in this article shall be construed to interfere with or preclude negotiations with employee organizations in either of the districts over the effects, if any, of the partner district's operation of the Compton Community College District.

74295. Notwithstanding any other provision of law:

(a) The Compton Community College District shall receive apportionment for courses provided at the Compton Community Educational Center by the partner district pursuant to Section 74292, subject to the transfer of moneys described in Sections 41329.53 and 41329.55 and in accordance with the following schedule:

(1) For the 2005–06 fiscal year, an amount not less than the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004–05 fiscal year.

(2) For the 2006–07 fiscal year, an amount not less than 90 percent of the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004–05 fiscal year.

(3) For the 2007–08 fiscal year, an amount not less than 80 percent of the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004–05 fiscal year.

(4) For the 2008–09 fiscal year, an amount not less than 70 percent of the amount that was received by the Compton Community College District for the attendance of full-time equivalent students for the 2004–05 fiscal year.

(b) In allocating funds for categorical aid to the Compton Community College District, the Chancellor of the California Community Colleges shall treat the Compton Community Educational Center as a separate college.

(c) The Compton Community College District shall not be subject to Section 84362 for the 2003–04 fiscal year to the 2008–09 fiscal year, inclusive.

(d) Should the loss of accreditation by the Compton Community College result in a lapse of federal financial assistance to otherwise eligible students before their eligibility is recognized through the partner district, the Compton Community College District may use a portion of the proceeds from the loan described in Section 41329.58 to provide comparable amounts of assistance to eligible students. This replacement funding shall not extend beyond the end of the term during which the lapse of federal funding occurred.

(e) The provisions of subdivision (a) shall be used solely to determine the apportionment funding to be allocated to the Compton Community College District. In computing statewide entitlements to funding based upon the attendance of full-time equivalent students, neither the Compton Community College District nor its partner district shall be credited with more full-time equivalent students for the Compton Community College District than were actually enrolled in attendance. It is the intent of the Legislature that any amounts necessary to make the apportionments required pursuant to subdivision (a) shall be drawn from the total statewide funding available for community college apportionments.

74296. Notwithstanding any other provision of law:

(a) In any action in which a court finds that any provision of this article is unlawful, or in any action challenging the implementation of this article, the Board of Governors of the California Community Colleges, the partner district, the Compton Community College District, and their respective officers, employees, and agents, are immune from the imposition of any award of money damages, including the award of attorney's fees, except to the extent that any liability for those claims arises from the gross negligence or willful misconduct of the party claiming the immunity.

(b) The state shall, from funds specifically appropriated for that purpose, indemnify and defend the partner district from and against any claims, other than claims based upon gross negligence or willful misconduct, arising out of its participation in the activities specified in this article.

SEC. 12. Section 63049.67 of the Government Code is amended to read:

63049.67. (a) Notwithstanding any other provision of this division, a financing of emergency apportionments upon the request of a school district pursuant to Article 2.7 (commencing with Section 41329.50) of Chapter 3 of Part 24 of the Education Code, is deemed to be in the public interest and eligible for financing by the bank. Article 3 (commencing with Section 63041), Article 4 (commencing with Section 63042) and Article 5 (commencing with Section 63043) do not apply to the financing provided by the bank in connection with an emergency apportionment.

(b) The bank may issue bonds pursuant to Chapter 5 (commencing with Section 63070) and provide the proceeds to a school district pursuant to a lease agreement. The proceeds may be used as an emergency apportionment, to reimburse the interim emergency apportionment from the General Fund authorized pursuant to subdivision (b) of Section 41329.52 of the Education Code, or to refund bonds previously issued under this section. Bond proceeds may also be used to fund necessary

reserves, capitalized interest, credit enhancement costs, and costs of issuance.

(c) Bonds issued under this article are not deemed to constitute a debt or liability of the state or of any political subdivision of the state, other than a limited obligation of the bank, or a pledge of the faith and credit of the state or of any political subdivision. All bonds issued under this article shall contain on the face of the bonds a statement to the same effect.

(d) Any fund or account established in connection with the bonds shall be established outside of the centralized treasury system. Notwithstanding any other law, the bank shall select the financing team and the trustee for the bonds, and the trustee shall be a corporation or banking association authorized to exercise corporate trust powers.

(e) Pursuant to Section 41329.55 of the Education Code, a school district other than the Compton Community College District shall instruct the Controller to repay the lease from moneys in the State School Fund designated for apportionment to the school district. Pursuant to Section 41329.55, if the school district is the Compton Community College District, the Controller shall be instructed to repay the lease from moneys in Section B of the State School Fund. Any amounts necessary to make this repayment shall be drawn from the total statewide funding available for community college apportionment consisting of funds in Section B of the State School Fund. Thereafter the Controller shall transfer to Section B of the State School Fund, either in a single or multiple transfers, an amount equal to the total repayment, which amount shall be transferred from the amount designated for apportionment to the Compton Community College District from the State School Fund. If these transfers from the district prove inadequate to repay any repayments for any reason, the Compton Community College District is required to use any revenue sources available to it for transfer and repayment purposes.

(f) Notwithstanding any other law, as long as any bonds issued pursuant to this section are outstanding, the following requirements apply:

(1) The school district for which the bonds were issued is not eligible to be a debtor in a case under Chapter 9 of the United States Bankruptcy Code, as it may be amended from time to time, and no governmental officer or organization is or may be empowered to authorize the school district to be a debtor under that chapter.

(2) It is the intent of the Legislature that the Legislature should not in the future abolish the Compton Community College District or take any action that would prevent the Compton Community College from entering into or performing binding agreements or invalidate any prior

binding agreements of the Compton Community College District, where invalidation may have a material adverse effect on the bonds issued pursuant to this section.

(3) The Compton Community College District shall not be reorganized or merged with another community college district unless all of the following apply:

(A) The successor district becomes by operation of law the owner of all property previously owned by the Compton Community College District.

(B) Any agreement entered into by the Compton Community College District in connection with bonds issued pursuant to this section are assumed by the successor district.

(C) The apportionment authorized by subdivision (e) remains in effect.

(D) Receipt by the bank of an opinion of bond counsel that the bonds issued for the Compton Community College District will remain tax exempt following the reorganization or merger.

(g) Nothing in this section limits the authority of the Legislature to abolish the Compton Community College District when bonds issued for that district are no longer outstanding. Further, the Legislature may provide for the redemption or defeasance of the bonds at any time so that no bonds are outstanding. If the Legislature provides for the redemption or defeasance of the bonds issued for the Compton Community College District in order to abolish that district, it is the intent of the Legislature that the funds required for the redemption or defeasance should be appropriated from Section B of the State School Fund.

(h) The bank may enter into contracts or agreements with banks, insurers, or other financial institutions or parties that it determines are necessary or desirable to improve the security and marketability of, or to manage interest rates or other risks associated with, the bonds issued pursuant to this section. The bank may pledge apportionments made by the Controller directly to the bond trustee pursuant to Section 41329.55 of the Education Code as security for repayment of any obligation owed to a bank, insurer, or other financial institution pursuant to this subdivision.

SEC. 13. It is the intent of the Legislature that the funds provided in Item 6110-107-0001 of Section 2.00 of the annual Budget Act for the County Office Fiscal Crisis and Management Assistance Team (FCMAT) be available for FCMAT to undertake activities related to community colleges as authorized pursuant to Sections 84040 and 84041 of the Education Code.

SEC. 14. The Legislature finds and declares that, due to the unique circumstances relating to the accreditation status of Compton Community

College, a general statute cannot be made applicable, and the enactment of Sections 7, 8, 9, and 11 of this act as a special statute is therefore necessary.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for educational programs and services to continue in the Compton Community College District to address financial hardships and accreditation challenges in time for the commencement of the 2006–07 academic year, it is necessary that this act take effect immediately.

CHAPTER 51

An act to amend Section 2985 of the Civil Code, relating to real property sales contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

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

SECTION 1. Section 2985 of the Civil Code is amended to read:

2985. (a) A real property sales contract is an agreement in which one party agrees to convey title to real property to another party upon the satisfaction of specified conditions set forth in the contract and that does not require conveyance of title within one year from the date of formation of the contract.

(b) For purposes of this chapter only, a real property sales contract does not include a contract for purchase of an attached residential condominium unit entered into pursuant to a conditional public report issued by the Department of Real Estate pursuant to Section 11018.12 of the Business and Professions Code.

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

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

To avoid subjecting developers to criminal liability for unknowingly violating Chapter 2c (commencing with Section 2985) of Title 14 of Part 4 of Division 3 of the Civil Code.

CHAPTER 52

An act to amend Section 12076 of the Penal Code, relating to firearms.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

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

SECTION 1. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy and the seller's personal information from the purchaser's copy.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice

employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy and the seller's information from the purchaser's copy.

(d) (1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision

(e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars ($14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is necessary to fund the following:

(1) (A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars ($14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (*l*) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transactions that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number

of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(*l*) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

CHAPTER 53

An act to repeal Section 24103 of the Government Code, relating to deputy sheriffs.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

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

SECTION 1. Section 24103 of the Government Code is repealed.

CHAPTER 54

An act to add Title 1.807 (commencing with Section 1798.79.8) to Part 4 of Division 3 of the Civil Code, relating to domestic violence.

[Approved by Governor June 30, 2006. Filed with Secretary of State June 30, 2006.]

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

SECTION 1. Title 1.807 (commencing with Section 1798.79.8) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.807. DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING: PERSONAL INFORMATION

1798.79.8. For purposes of this title:

(a) "Person or entity" means any individual, corporation, partnership, joint venture, or any business entity, or any state or local agency.

(b) "Personally identifying information" means:

(1) First and last name or last name only.

(2) Home or other physical address, including, but not limited to, a street name or ZIP Code, other than an address obtained pursuant to the California Safe At Home program or a business mailing address for the victim service provider.

(3) Electronic mail address or other online contact information, such as an instant messaging user identifier or a screen name that reveals an individual's electronic mail address.

(4) Telephone number, other than a business telephone number for the victim service provider.

(5) Social security number.

(6) Date of birth, with the exception of the year of birth.

(7) Internet protocol address or host name that identifies an individual.

(8) Any other information, including, but not limited to, the first and last names of children and relatives, racial or ethnic background, or religious affiliation, that, in combination with any other nonpersonally identifying information, would serve to identify any individual.

(c) "Victim service provider" means a nongovernmental organization or entity that provides shelter, programs, or services at low cost, no cost, or on a sliding scale to victims of domestic violence, dating violence, sexual assault, or stalking, or their children, either directly or through other contractual arrangements, including rape crisis centers, domestic violence shelters, domestic violence transitional housing programs, and other programs with the primary mission to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, or their children, whether or not that program exists in an agency that provides additional services.

1798.79.9. (a) In the course of awarding grants, including, but not limited to, requests for proposals, contracts, or billing procedures, implementing programs, or providing financial support or assistance for the purpose of providing shelter, programs, or services at low cost, no cost, or on a sliding scale to victims of domestic violence, dating violence, sexual assault, or stalking, or their children, to any victim service provider, it is unlawful for any person or entity to request or require that victim service provider to provide personally identifying information regarding any of the persons to whom it is providing services,

it has provided services, or it has considered or is considering providing services.

(b) In the course of awarding grants, including, but not limited to, requests for proposals, contracts, or billing procedures, implementing programs, or providing financial support or assistance for the purpose of providing shelter, programs, or services at low cost, no cost, or on a sliding scale to victims of domestic violence, dating violence, sexual assault, or stalking, or their children, to any victim service provider, it is unlawful for any person or entity to request or require that victim service provider to use any computer software, computer program, computer protocol, or other computer system that requires the disclosure of personally identifying information regarding any of the persons to whom it is providing services, it has provided services, or it has considered or is considering providing services.

(c) Nothing in this section is intended to prevent the collection of information for statistical purposes that are necessary for the proper administration of the grant, program, or financial assistance, provided that collection does not require the disclosure of information that would serve to identify any specific individual.

1798.79.95. Injunctive relief shall be available to any victim service provider aggrieved by a violation of this title. The prevailing plaintiff in any action commenced under this section shall be entitled to recover court costs and reasonable attorney's fees if the victim service provider has provided notice of this section and the asserted violation of this section to the defendant and the defendant has failed to cease the violation within five business days of receiving that notice.

CHAPTER 55

An act to make an appropriation in augmentation of the Budget Act of 2005, relating to contingencies and emergencies, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. The sum of one hundred twenty-five million nine hundred thirty-one thousand dollars ($125,931,000) is hereby appropriated from the General Fund for expenditure for the 2005–06

fiscal year in augmentation of Item 9840-001-0001 of Section 2.00 of the Budget Act of 2005 (Chs. 38 and 39, Stats. 2005). Notwithstanding Provision 7 of Item 9840-001-0001, these funds shall be allocated by the Controller in accordance with the following schedule:

(1) One hundred twenty-five million nine hundred thirty-one thousand dollars ($125,931,000) to Item 5225-001-0001, scheduled as follows:

(a) Three million five hundred fourteen thousand dollars ($3,514,000) to Schedule (1) 10-Corrections and Rehabilitation Administration.

(b) Seven million one hundred six thousand dollars ($7,106,000) to Schedule (3) 20-Juvenile Operations.

(c) Four hundred fifty-seven thousand dollars ($457,000) to Schedule (4) 21-Juvenile Education, Vocations and Offender Program.

(d) Ninety-five million two hundred thirty-nine thousand dollars ($95,239,000) to Schedule (7) 25-Adult Corrections and Rehabilitation Operations.

(e) One million one hundred seventy-nine thousand dollars ($1,179,000) to Schedule (9) 35-Board of Parole Hearings.

(f) One million two hundred eighty-four thousand dollars ($1,284,000) to Schedule (10) 45-Education, Vocations and Offender Program-Adult.

(g) Seventeen million one hundred fifty-two thousand dollars ($17,152,000) to Schedule (11) 50-Correctional Health Care Services.

SEC. 2. The sum of one million nine hundred seventy-five thousand dollars ($1,975,000) is hereby appropriated from unallocated, nongovernmental cost funds for expenditure for the 2005–06 fiscal year in augmentation of Item 9840-001-0988 of Section 2.00 of the Budget Act of 2005 (Chs. 38 and 39, Stats. 2005). Notwithstanding Provision 7 of Item 9840-001-0001 of Section 2.00 of the Budget Act of 2005 (Chs. 38 and 39, Stats. 2005), these funds shall be allocated by the Controller in accordance with the following schedule:

(1) One million five hundred thousand dollars ($1,500,000) to Item 4260-003-0942.

(2) Four hundred seventy-five thousand dollars ($475,000) to Item 5225-001-0917, Program 45-Education, Vocations and Offender Program-Adult.

SEC. 3. Any unencumbered balances as of June 30, 2006, of the funds appropriated in any of the items identified in Section 1 shall revert to the General Fund.

SEC. 4. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 56

An act to amend Sections 14556.8 and 63048.65 of, and to add Section 8592.7 to, the Government Code, to amend Sections 7102, 7105, and 7106 of, and to add Section 7104.3 to, the Revenue and Taxation Code, and to repeal and add Section 140.3 of the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 8592.7 is added to the Government Code, to read:

8592.7. (a) A budget proposal submitted by a state agency for support of a new or modified radio system shall be accompanied by a technical project plan that includes all of the following:

(1) The scope of the project.

(2) Alternatives considered.

(3) Justification for the proposed solution.

(4) A project implementation plan.

(5) A proposed timeline.

(6) Estimated costs by fiscal year.

(b) The committee shall review the plans submitted pursuant to subdivision (a) for consistency with the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

(c) The Telecommunications Division of the Department of General Services shall review the plans submitted pursuant to subdivision (a) for consistency with the technical requirements of the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

SEC. 2. Section 14556.8 of the Government Code is amended to read:

14556.8. (a) (1) To the extent necessary to provide adequate cash to fund projected expenditures under this chapter, the Director of Finance may authorize, by executive order, the transfer of not more than one hundred million dollars ($100,000,000), as an interest free loan, from the Motor Vehicle Account in the State Transportation Fund to the TCRF, and the transfer of any available funds, as an interest free loan, from the General Fund to the TCRF. Loans from the Motor Vehicle Account may

be made no sooner than July 1, 2004, and shall be repaid no later than July 1, 2007. The Director of Finance shall not authorize a loan from the Motor Vehicle Account, and shall promptly require the repayment of any outstanding balance owed to that account, if the funds are needed in the account to make expenditures authorized in the annual Budget Act and by any other appropriations made by the Legislature.

(2) To provide cash needed for expenditures on projects listed in Section 14556.40, the Legislature may authorize loans from the Public Transportation Account or the State Highway Account to the TCRF through the annual Budget Act. The Legislature may also authorize the State Highway Account to expend funds on behalf of projects listed in Section 14556.40 and those expenditures shall constitute a loan to the TCRF. Loans from the Public Transportation Account shall not exceed a cumulative total of two hundred eighty million dollars ($280,000,000), and loans from the State Highway Account shall not exceed a cumulative total of six hundred fifty-four million dollars ($654,000,000).

(b) The Director of Finance shall order the repayment of the loans authorized under this section under those terms and conditions that the director deems appropriate, upon determining that there are adequate funds available for that purpose in the TCRF and that repayment will not jeopardize the availability of money needed to fund approved and projected expenditures under this chapter. All loans from the Public Transportation Account and the State Highway Account shall be repaid at the time the TCRF is repaid pursuant to paragraph (2) of subdivision (c). Upon the request of the commission or the Director of Finance, the department shall provide a report, for purposes of this subdivision, projecting the cash needs of the projects approved under this chapter.

(c) (1) Money in the TCRF derived from the General Fund and not currently needed for expenditures on the projects listed in Section 14556.40 may be loaned to the General Fund through the annual Budget Act.

(2) Upon making a determination that funds in the TCRF are not adequate to support expected cash expenditures for the listed projects, the Director of Finance, by executive order, shall require that funds loaned to the General Fund under paragraph (1) be repaid to the TCRF. All these loans shall be repaid upon the sale of bonds authorized by Article 6.5 (commencing with Section 63048.6) of Chapter 2 of Division 1 of Title 6.7. If the proceeds from those bonds are insufficient to repay the funds loaned to the General Fund under paragraph (1), the remaining amount of those loans shall be repaid from future tribal gaming revenues, additional securitizations against those revenues, or from the General Fund.

(3) Interest at the rate earned by the Surplus Money Investment Fund shall be paid to the TCRF from the General Fund with respect to the cumulative amount loaned from the State Highway Account to the TCRF pursuant to paragraph (2) of subdivision (a) that is in excess of one hundred eighty million dollars ($180,000,000). The amount of this interest obligation shall be calculated annually on the balance of this portion of this outstanding loan amount. All interest on the loan shall be paid in full at the time the TCRF is repaid pursuant to paragraph (2), and the interest payment shall be transferred from the TCRF to the State Highway Account.

(d) Funds loaned to the TCRF under this section shall be used for purposes consistent with any restrictions on uses of those funds imposed under the California Constitution or by statute. The department shall identify specific projects to which those funds may properly be applied and shall propose that application of funds to the commission. The commission shall designate projects to receive those funds through the processes described in Article 3 (commencing with Section 14556.10) and Article 4 (commencing with Section 14556.25). The department shall report periodically to the commission and the Department of Finance on the expenditure of those funds.

(e) This section shall become inoperative upon full repayment of loans authorized by this section, and shall be repealed on January 1 of the following year.

SEC. 3. Section 63048.65 of the Government Code is amended to read:

63048.65. (a) Upon a filing by the Director of Finance with the bank of a list of designated tribal compacts and the specific portions of the compact assets to be sold, the bank may sell for, and on behalf of, the state, solely as its agent, those specific portions of the compact assets to a special purpose trust. To that end, a special purpose trust is hereby established as a not-for-profit corporation solely for that purpose and for the purposes necessarily incidental thereto. The bank may enter into one or more sales agreements with the special purpose trust on terms it deems appropriate, which may include covenants of, and binding on, the state necessary to establish and maintain the security of the bonds and exemption of interest on the bonds from federal income taxation. The portion of the compact assets to be sold shall be an amount or amounts determined by the Director of Finance that are necessary to provide the state with net proceeds of the sale, not to exceed one billion five hundred million dollars ($1,500,000,000), exclusive of capitalized interest on the bonds and any costs incurred by the bank or the special purpose trust in implementing this article, including, but not limited to, the cost of financing one or more reserve funds, any credit enhancements,

costs incurred in the issuance of bonds, and operating expenses. Those specific portions of the compact assets may be sold at one time or from time to time.

(b) The special purpose trust may issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine, and do all things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights, privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds, and may enter into agreements with any public or private entity and pledge the compact assets that it purchased as collateral and security for its bonds. However, to the extent of any conflict between any of the foregoing and the provisions of this article, the provisions of this article shall control. The pledge of any of these assets and of any revenues, reserves, and earnings pledged in connection with these assets shall be valid and binding in accordance with its terms from the time the pledge is made, and amounts so pledged and thereafter received shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The special purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.

(c) (1) The net proceeds of the sale of compact assets by the bank shall be deposited in the following order:

(A) One billion two hundred million dollars ($1,200,000,000) plus any interest due pursuant to paragraph (3) of subdivision (c) of Section 14556.8, to the Traffic Congestion Relief Fund for the purpose of funding or reimbursing the cost of projects, programs, and activities permitted and necessary to be funded by that fund in accordance with applicable law, and to repay loans made from the State Highway Account and the Public Transportation Account to the Traffic Congestion Relief Fund pursuant to Section 14556.8, in the following priority order:

(i) Transfer of four hundred forty-three million dollars ($443,000,000) plus any interest due pursuant to paragraph (3) of subdivision (c) of Section 14556.8, to the State Highway Account for project expenditures.

(ii) Two hundred ninety million dollars ($290,000,000) for allocation to Traffic Congestion Relief Program projects.

(iii) Two hundred seventy-five million dollars ($275,000,000) to the Public Transportation Account for project expenditures.

(iv) All remaining funds for allocation to Traffic Congestion Relief Program projects.

(B) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2004–05 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.

(C) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2003–04 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.

(2) Notwithstanding paragraph (1), if and to the extent it is necessary to ensure to the maximum extent practicable the eligibility for exclusion from taxation under the federal Internal Revenue Code of interest on the bonds to be issued by the special purpose trust, the Director of Finance may adjust the application of proceeds not eligible for exclusion from taxation among the authorized funds described in paragraph (1). The Department of Finance shall submit a report to the Legislature describing any proposed changes among the authorized funds in paragraph (1), and consistent with this paragraph, at least 30 days prior to issuing the bonds pursuant to this article. Amounts deposited in the Traffic Congestion Relief Fund pursuant to paragraph (1) shall be applied as a credit to transfers from the General Fund that the Controller would otherwise be required to make to that fund. Amounts deposited in the Transportation Deferred Investment Fund shall be expended in conformance with Sections 7105 and 7106 of the Revenue and Taxation Code, and the amounts so deposited shall also be applied as a credit to the transfers from the General Fund that the Controller would otherwise be required to make under those sections. The Legislature hereby finds and declares that the deposits and credits described in this subdivision do not constitute the use of the proceeds of bonds or other indebtedness to pay a yearend State Budget deficit as prohibited by subdivision (c) of Section 1.3 of Article XVI of the California Constitution. Subject to any constitutional limitation, the use and application of the proceeds of any sale of compact assets or bonds shall not in any way affect the legality or validity of that sale or those bonds.

(d) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, that are neither sold to the special purpose trust nor otherwise appropriated, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.1 of the amended compacts, or the comparable

section in new compacts, as specified in those compacts, shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

(e) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be held in an account within the Special Deposit Fund until those funds are sold or otherwise applied pursuant to this subdivision. From time to time, at the direction of the Director of Finance, any moneys in this account shall be deposited and applied in accordance with subdivision (c) or shall be deemed to be compact assets for purposes of sale to the special purpose trust pursuant to this article. If the Director of Finance determines that the bonds authorized pursuant to this article cannot be successfully issued by the special purpose trust, funds within the account shall be deposited in accordance with subdivision (c). In addition, all subsequent revenues remitted pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be used to satisfy the purposes of subdivision (c). When the amounts described in subdivision (c) have been paid to the funds named in that subdivision either pursuant to this article or by other appropriations or transfers, thereafter the revenues received by the state from Section 4.3.3 of the compact shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

(f) The principal office of the special purpose trust shall be located in the County of Sacramento. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank. The members of the board of directors of the bank as of the effective date of this article, the Director of the Department of Transportation, and the Director of General Services, shall each serve ex officio as the directors of the special purpose trust. Any of these directors may name a designee to act on his or her behalf as a director of the special purpose trust. The Director of Finance or his or her designee shall serve as chair of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The Legislature hereby finds and declares that the duties and responsibilities of the directors of the special purpose trust and the duties and responsibilities of the Director of Finance established under this article

are within the scope of the primary duties of those persons in their official capacities. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank.

SEC. 4. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4¾-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund, except as modified as follows:

(A) For the 2001–02 fiscal year, those transfers may not be more than eighty-one million dollars ($81,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds eighty-one million dollars ($81,000,000).

(B) For the 2002–03 fiscal year, those transfers may not be more than thirty-seven million dollars ($37,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds thirty-seven million dollars ($37,000,000).

(C) For the 2003–04 fiscal year, no transfers shall be made pursuant to this paragraph, except that if the amount to be otherwise transferred pursuant to this paragraph is in excess of eighty-seven million four hundred fifty thousand dollars ($87,450,000), then the amount of that excess shall be transferred.

(D) For the 2004–05 fiscal year, no transfers shall be made pursuant to this paragraph, and of the amount that would otherwise have been transferred, one hundred forty million dollars ($140,000,000) shall instead be transferred to the Traffic Congestion Relief Fund as partial repayment of amounts owed by the General Fund pursuant to Item 2600-011-3007 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002).

(E) For the 2005–06 fiscal year, no transfers shall be made pursuant to this paragraph.

(F) For the 2006–07 fiscal year, the revenues estimated pursuant to this paragraph shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred and allocated as follows:

(i) The first two hundred million dollars ($200,000,000) shall be transferred to the Transportation Deferred Investment Fund as partial repayment of the amounts owed by the General Fund to that fund pursuant to Section 7106.

(ii) The next one hundred twenty-five million dollars ($125,000,000) shall be transferred to the Bay Area Toll Account for expenditure pursuant to Section 188.6 of the Streets and Highways Code.

(iii) Of the remaining revenues, thirty-three million dollars ($33,000,000) shall be transferred to the Public Transportation Account to support appropriations from that account in the Budget Act of 2006.

(iv) The remaining revenues shall be transferred to the Public Transportation Account for allocation as follows:

(I) Twenty percent to the Department of Transportation for purposes of Section 99315 of the Public Utilities Code.

(II) Forty percent to the Controller, for allocation pursuant to Section 99314 of the Public Utilities Code.

(III) Forty percent to the Controller, for allocation pursuant to Section 99313 of the Public Utilities Code.

(2) All revenues, less refunds, derived under this part at the 4¾-percent rate, resulting from increasing, after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the 4¾-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(5) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund

created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Public Transportation Account as a trust fund pursuant to subdivision (a), the Controller may use the Public Transportation Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

SEC. 5. Section 7104.3 is added to the Revenue and Taxation Code, to read:

7104.3. Notwithstanding any other provision of law, the Department of Finance may adjust the budgeting, accounting, and reporting system for the Transportation Investment Fund so that unliquidated encumbrances are not reflected in the fund balance or financial statement.

SEC. 6. Section 7105 of the Revenue and Taxation Code is amended to read:

7105. (a) The Transportation Deferred Investment Fund is hereby created in the State Treasury.

(b) On or before June 30, 2009, the Controller shall transfer an amount from the General Fund to the Transportation Deferred Investment Fund that is equal to the amount that was not transferred from the General Fund to the Transportation Investment Fund for the 2003–04 fiscal year because of the partial suspension of the transfer pursuant to Section 14557 of the Government Code, plus interest calculated at the Pooled Money Investment Account rate relative to the amounts that would otherwise have been available for the transportation programs described in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104. The amount to be transferred from the General Fund to the Transportation Deferred Investment Fund shall be reduced by the amount of any payment made to the Transportation Deferred Investment Fund from any funding source, excluding subdivision (d). The moneys deposited in the

Transportation Deferred Investment Fund pursuant to this subdivision are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(c) The Controller, from the moneys deposited in the Transportation Deferred Investment Fund pursuant to subdivision (b), shall make transfers and apportionments of those funds in the same manner and amounts that would have been made in the 2003–04 fiscal year from the Transportation Investment Fund pursuant to Section 7104, as that section read on January 1, 2003, if the transfer of funds from the General Fund to the Transportation Investment Fund had not been partially suspended for the 2003–04 fiscal year pursuant to Section 14557 of the Government Code. However, in making those transfers and apportionments, the Controller shall take into account and deduct therefrom any transfers and apportionments that were made from the Transportation Investment Fund in the 2003–04 fiscal year from funds made available pursuant to subdivision (b) of Section 14557 of the Government Code. It is the intent of the Legislature that, upon completion of the transfer of funds pursuant to subdivision (b) from the General Fund to the Transportation Deferred Investment Fund, each of the transportation programs that was to have been funded during the 2003–04 fiscal year from the Transportation Investment Fund pursuant to Section 7104 of this code shall have received the amount of funding that the program would have received in the absence of the suspension of the transfer pursuant to Section 14557 of the Government Code.

(d) The interest that is to be deposited in the Transportation Deferred Investment Fund pursuant to subdivision (b) shall be allocated proportionately to each program element in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104, based on the amount that each program did not receive in the 2003–04 fiscal year due to suspension of the transfer pursuant to Section 14557 of the Government Code.

(e) Four hundred ninety-five million dollars ($495,000,000) is hereby appropriated from the General Fund to the Transportation Deferred Investment Fund for the purpose of paying a portion of the amount required to be paid pursuant to subdivision (b). The Controller shall make the payment immediately upon enactment of the statute amending this section in the 2005–06 Regular Session. Notwithstanding subdivision (c), these funds, shall be distributed as follows:

(1) The first one hundred ninety-two million dollars ($192,000,000) and any interest due pursuant to this section shall remain in the Transportation Deferred Investment Fund to be used for projects in the State Transportation Improvement Program pursuant to paragraph (3) of subdivision (c) of Section 7104.

(2) The next one hundred ninety-two million dollars ($192,000,000) and any interest due pursuant to this section shall be distributed to cities and counties, as follows:

(A) Ninety-six million dollars ($96,000,000) and any interest due pursuant to this section shall be transferred to cities for the purposes specified in Section 7104 pursuant to the formula in paragraph (5) of subdivision (c) of that section.

(B) Ninety-six million dollars ($96,000,000) and any interest due pursuant to this section shall be transferred to counties for the purposes specified in Section 7104 pursuant to the formula in paragraph (4) of subdivision (c) of that section.

(3) Ninety-six million dollars ($96,000,000) and any interest due pursuant to this section shall be transferred to the Public Transportation Account for allocation pursuant to Section 99312 of the Public Utilities Code.

(4) Any funds remaining following the distributions required by paragraphs (1), (2), and (3) shall be transferred to the Traffic Congestion Relief Fund, and shall be deemed to be funds received by that fund in the 2003–04 fiscal year.

(f) The Legislature finds and declares that continued investment in transportation is essential for the California economy. That investment reduces traffic congestion, assists in economic development, improves the condition of local streets and roads, and provides high-quality public transportation.

(g) Notwithstanding any other provision of law, the Department of Finance may adjust the budgeting, accounting, and reporting system for the Transportation Deferred Investment Fund so that unliquidated encumbrances are not reflected in the fund balance or financial statement.

SEC. 7. Section 7106 of the Revenue and Taxation Code is amended to read:

7106. (a) On or before June 30, 2008, the Controller shall transfer an amount from the General Fund to the Transportation Deferred Investment Fund that is equal to the amount that was not transferred from the General Fund to the Transportation Investment Fund for the 2004–05 fiscal year because of the suspension of the transfer pursuant to Section 14558 of the Government Code, plus interest calculated at the Pooled Money Investment Account rate relative to the amounts that would otherwise have been available for the transportation programs described in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104. The amount to be transferred from the General Fund to the Transportation Deferred Investment Fund shall be reduced by the amount of any payment made to the Transportation Deferred Investment Fund from any funding source.

(b) The money deposited in the Transportation Deferred Investment Fund pursuant to this section is continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(c) The Controller, from the money deposited in the Transportation Deferred Investment Fund pursuant to subdivision (a), shall make transfers and apportionments of those funds in the same manner and amounts that would have been made in the 2004–05 fiscal year from the Transportation Investment Fund pursuant to Section 7104, as that section read on January 1, 2003, if the transfer of funds from the General Fund to the Transportation Investment Fund had not been suspended for the 2004–05 fiscal year pursuant to Section 14558 of the Government Code. It is the intent of the Legislature that upon completion of the transfer of funds pursuant to subdivision (a) from the General Fund to the Transportation Deferred Investment Fund that each of the transportation programs that was to have been funded during the 2004–05 fiscal year from the Transportation Investment Fund pursuant to Section 7104 shall have received the amount of funding that the program would have received in the absence of the suspension of the transfer pursuant to Section 14558 of the Government Code.

(d) The interest that is to be deposited in the Transportation Deferred Investment Fund pursuant to subdivision (a) shall be allocated proportionately to each program element in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104, based on the amount that each program did not receive in the 2004–05 fiscal year due to suspension of the transfer pursuant to Section 14558 of the Government Code.

(e) Seven hundred twenty million dollars ($720,000,000) is hereby appropriated from the General Fund to the Transportation Deferred Investment Fund for the purpose of paying a portion of the amount required to be paid pursuant to subdivision (a). The Controller shall make the payment immediately upon enactment of the statute amending this section in the 2005–06 Regular Session. In addition, two hundred million dollars ($200,000,000) transferred to the Transportation Deferred Investment Fund pursuant to subparagraph (F) of paragraph (1) of subdivision (a) of Section 7102 shall also be available for that purpose. Notwithstanding subdivision (c), these funds, totaling nine hundred twenty million dollars ($920,000,000), shall be distributed as follows:

(1) The first two hundred thirty-two million dollars ($232,000,000) and any interest due pursuant to this section shall remain in the Transportation Deferred Investment Fund to be used for projects in the State Transportation Improvement Program pursuant to paragraph (3) of subdivision (c) of Section 7104.

(2) The next two hundred thirty-two million dollars ($232,000,000) and any interest due pursuant to this section shall be distributed to cities and counties, as follows:

(A) One hundred sixteen million dollars ($116,000,000) and any interest due pursuant to this section shall be transferred to cities for the purposes specified in Section 7104 pursuant to the formula in paragraph (5) of subdivision (c) of that section.

(B) One hundred sixteen million dollars ($116,000,000) and any interest due pursuant to this section shall be transferred to counties for the purposes specified in Section 7104 pursuant to the formula in paragraph (4) of subdivision (c) of that section.

(3) One hundred sixteen million dollars ($116,000,000) and any interest due pursuant to this section shall be transferred to the Public Transportation Account for allocation pursuant to Section 99312 of the Public Utilities Code.

(4) Any funds remaining following the distributions required by paragraphs (1), (2), and (3) shall be transferred to the Traffic Congestion Relief Fund, and shall be deemed to be funds received by that fund in the 2004–05 fiscal year. It is estimated that the amount to be available under this subparagraph will be three hundred fifteen million dollars ($315,000,000).

SEC. 8. Section 140.3 of the Streets and Highways Code is repealed.

SEC. 9. Section 140.3 is added to the Streets and Highways Code, to read:

140.3. Effective June 30, 2006, the Equipment Service Fund in the State Treasury is abolished and all moneys in the fund shall be transferred to the State Highway Account in the State Transportation Fund. Any outstanding liabilities and encumbrances of the Equipment Service Fund as of June 30, 2006, shall become liabilities and encumbrances payable from the State Highway Account.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement transportation financing changes relative to the Budget Act of 2006, it is necessary that this act take effect immediately.

CHAPTER 57

An act to amend Sections 191 and 710 of the Corporations Code, relating to corporations.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 191 of the Corporations Code is amended to read:

191. (a) For the purposes of Chapter 21 (commencing with Section 2100), "transact intrastate business" means entering into repeated and successive transactions of its business in this state, other than interstate or foreign commerce.

(b) A foreign corporation shall not be considered to be transacting intrastate business merely because its subsidiary transacts intrastate business or merely because of its status as any one or more of the following:

(1) A shareholder of a domestic corporation.

(2) A shareholder of a foreign corporation transacting intrastate business.

(3) A limited partner of a domestic limited partnership.

(4) A limited partner of a foreign limited partnership transacting intrastate business.

(5) A member or manager of a domestic limited liability company.

(6) A member or manager of a foreign limited liability company transacting intrastate business.

(c) Without excluding other activities that may not constitute transacting intrastate business, a foreign corporation shall not be considered to be transacting intrastate business within the meaning of subdivision (a) solely by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its board or shareholders or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or depositaries with relation to its securities.

(5) Effecting sales through independent contractors.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance outside this state before becoming binding contracts.

(7) Creating evidences of debt or mortgages, liens or security interests on real or personal property.

(8) Conducting an isolated transaction completed within a period of 180 days and not in the course of a number of repeated transactions of like nature.

(d) Without excluding other activities that may not constitute transacting intrastate business, any foreign lending institution, including, but not limited to: any foreign banking corporation, any foreign corporation all of the capital stock of which is owned by one or more foreign banking corporations, any foreign savings and loan association, any foreign insurance company or any foreign corporation or association authorized by its charter to invest in loans secured by real and personal property, whether organized under the laws of the United States or of any other state, district or territory of the United States, shall not be considered to be doing, transacting or engaging in business in this state solely by reason of engaging in any or all of the following activities either on its own behalf or as a trustee of a pension plan, employee profit sharing or retirement plan, testamentary or inter vivos trust, or in any other fiduciary capacity:

(1) The acquisition by purchase, by contract to purchase, by making of advance commitments to purchase or by assignment of loans, secured or unsecured, or any interest therein, if those activities are carried on from outside this state by the lending institution.

(2) The making by an officer or employee of physical inspections and appraisals of real or personal property securing or proposed to secure any loan, if the officer or employee making any physical inspection or appraisal is not a resident of and does not maintain a place of business for that purpose in this state.

(3) The ownership of any loans and the enforcement of any loans by trustee's sale, judicial process or deed in lieu of foreclosure or otherwise.

(4) The modification, renewal, extension, transfer or sale of loans or the acceptance of additional or substitute security therefor or the full or partial release of the security therefor or the acceptance of substitute or additional obligors thereon, if the activities are carried on from outside this state by the lending institution.

(5) The engaging by contractural arrangement of a corporation, firm or association, qualified to do business in this state, that is not a subsidiary or parent of the lending institution and that is not under common management with the lending institution, to make collections and to service loans in any manner whatsoever, including the payment of ground rents, taxes, assessments, insurance, and the like and the making, on behalf of the lending institution, of physical inspections and appraisals of real or personal property securing any loans or

proposed to secure any loans, and the performance of any such engagement.

(6) The acquisition of title to the real or personal property covered by any mortgage, deed of trust or other security instrument by trustee's sale, judicial sale, foreclosure or deed in lieu of foreclosure, or for the purpose of transferring title to any federal agency or instrumentality as the insurer or guarantor of any loan, and the retention of title to any real or personal property so acquired pending the orderly sale or other disposition thereof.

(7) The engaging in activities necessary or appropriate to carry out any of the foregoing activities.

Nothing contained in this subdivision shall be construed to permit any foreign banking corporation to maintain an office in this state otherwise than as provided by the laws of this state or to limit the powers conferred upon any foreign banking corporation as set forth in the laws of this state or to permit any foreign lending institution to maintain an office in this state except as otherwise permitted under the laws of this state.

SEC. 2. Section 710 of the Corporations Code is amended to read:

710. (a) This section applies to a corporation with outstanding shares held of record by 100 or more persons (determined as provided in Section 605) that files an amendment of articles or certificate of determination containing a "supermajority vote" provision on or after January 1, 1989. This section shall not apply to a corporation that files an amendment of articles or certificate of determination on or after January 1, 1994, if, at the time of filing, the corporation has (1) outstanding shares of more than one class or series of stock, (2) no class of equity securities registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934, and (3) outstanding shares held of record by fewer than 300 persons determined as provided by Section 605.

(b) A "supermajority vote" is a requirement set forth in the articles or in a certificate of determination authorized under any provision of this division that specified corporate action or actions be approved by a larger proportion of the outstanding shares than a majority, or by a larger proportion of the outstanding shares of a class or series than a majority, but no supermajority vote that is subject to this section shall require a vote in excess of 66 ⅔ percent of the outstanding shares or 66 ⅔ percent of the outstanding shares of any class or series of those shares.

(c) An amendment of the articles or a certificate of determination that includes a supermajority vote requirement shall be approved by at least as large a proportion of the outstanding shares (Section 152) as is required pursuant to that amendment or certificate of determination for the approval of the specified corporate action or actions.

(d) The amendments made to this section by the act amending this section in the 2001–02 Regular Session shall not affect the rights of minority shareholders existing under law.

CHAPTER 58

An act to amend Section 12741 of the Government Code, relating to state government.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 12741 of the Government Code is amended to read:

12741. The state's planning process shall include the following:

(a) The state plan shall identify eligible activities and the eligible entities which will conduct those activities in order to meet the general goals of the California Community Services Block Grant Program and the specific goals of the program. The plan shall, particularly with respect to subdivision (d) of Section 12740, reflect the aggregate of community action plans in order to fairly represent the most essential characteristic of the California Community Services Block Grant Program, which is its adherence to the principle of community self-help.

(b) The appropriate policy committee of the Assembly or the Senate, or both shall conduct one or more public hearings on the proposed use and distribution of funds provided under the California Community Services Block Grant Program. Prior to the hearing, the department shall forward to the policy committees a list of the activities it has identified as statewide priorities pursuant to subdivision (e) of Section 12745, in order to notify the Legislature and the public of the issues to be addressed by the department at each hearing. The chairs of the policy committees may request additional issues to be reported on by the department. The hearings shall be conducted in such a manner as to satisfy the legislative hearing requirement of federal Public Law 97-35, as amended, and to give the Legislature an opportunity to certify that the state plan conforms to the requirements of this chapter. At the discretion of the respective chairs, the policy committees may hold a single or joint hearing, or both to satisfy the requirements of this section.

(c) The department shall make adjustments to the state plan as a result of public comments presented at the legislative hearing as well as written

comments which are submitted to the department. The department shall identify all testimony presented by the poor, and shall state whether the concerns expressed therein have been included in the plan. If any of those concerns have not been included in the plan the department shall specify in the plan the reasons for the rejection of those concerns. Concerns shall only be rejected if there is good cause for the rejection.

(d) The committees conducting the hearings pursuant to subdivision (b) shall determine whether the concerns of the poor have been included in the state plan, as adjusted, or rejected for good cause. Before the final state plan is submitted to the secretary, the chairs of the committees conducting hearings shall certify that the state plan conforms with the requirements of this chapter.

(e) Upon receiving the certification required in subdivision (d), the department shall submit the final state plan, as required by Section 9908 of Title 42 of the United States Code, as amended, to the secretary, and shall provide a copy to all grantees and state legislators no more than one week thereafter.

CHAPTER 59

An act to amend Section 48203 of the Education Code, relating to school attendance.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 48203 of the Education Code is amended to read:

48203. (a) The superintendent of a school district and the principal of a private school in each county shall, upon the severance of attendance or the denial of admission of any child who is an individual with exceptional needs, as that term is defined in Section 56026, or who is a qualified handicapped person, as that term is defined in regulations promulgated by the United States Department of Education pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), but who is otherwise subject to the compulsory education laws of California, report the severance, expulsion, exclusion, exemption, transfer, or suspension beyond 10 schooldays to the county superintendent of schools. The report shall include names, ages, last known address, and the reason

for the severance, expulsion, exclusion, exemption, transfer, or suspension.

(b) It is the duty of the county superintendent to examine those reports and draw to the attention of the county board of education and governing board of a school district any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After a preliminary study of available information in cases referred to it, the county board of education may, on its own action, hold hearings on those cases in the manner provided in Section 48914 and with the same powers of final decision as therein provided.

CHAPTER 60

An act to add Section 351.5 to the Family Code, relating to marriage licenses.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 351.5 is added to the Family Code, to read:

351.5. Notwithstanding subdivision (b) of Section 351 or 359 of this code, or Section 103175 of the Health and Safety Code, if either of the applicants for, or any witness to, a certificate of registry of marriage and a marriage license requests, the certificate of registry and the marriage license shall show the business address or United States Postal Service post office box for that applicant or witness instead of the residential address of that person.

CHAPTER 61

An act to amend Section 14132.88 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 14132.88 of the Welfare and Institutions Code is amended to read:

14132.88. (a) Notwithstanding subdivision (h) of Section 14132 and to the extent funds are made available in the annual Budget Act for this purpose, the following are covered benefits for beneficiaries 21 years of age or older under this chapter:

(1) One dental prophylaxis cleaning per year.

(2) One initial dental examination by a dentist.

(b) The following are covered benefits for beneficiaries under 21 years of age under this chapter:

(1) Two dental prophylaxis cleanings per year.

(2) Two periodic dental examinations per year.

(c) For persons 21 years of age or older, laboratory-processed crowns on posterior teeth are not a covered benefit except when a posterior tooth is necessary as an abutment for any fixed or removable prosthesis.

(d) Any prefabricated crown made from ADA-approved materials may be used on posterior teeth and may be reimbursed as a stainless steel crown.

(e) The department shall reduce the rate of subgingival curettage and root planing by 41 percent for all beneficiaries except those residing in a skilled nursing facility or an intermediate care facility for the developmentally disabled. Notwithstanding Section 14105 and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this subdivision by means of a provider bulletin or similar instruction, without taking regulatory action.

(f) (1) Except as provided in paragraph (2), the department shall require pretreatment radiograph documentation on posttreatment claims to establish the medical necessity for dental restorations. The pretreatment documentation required under this subdivision is intended to reduce fraudulent claims for unnecessary dental fillings. In order to avoid any undue barriers to accessing dental care, the department shall stipulate that the pretreatment radiograph documentation for posttreatment claims will be required only when there are four or more dental fillings being completed in any 12-month period.

(2) For any beneficiary who is under four years of age, or who, regardless of age, has a developmental disability, as defined in subdivision (a) of Section 4512, radiographs or photographs that indicate decay on any tooth surface shall be considered sufficient documentation to establish the medical necessity for treatment provided.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this subdivision by means of a provider bulletin or similar instruction, without taking regulatory action.

CHAPTER 62

An act to amend Section 3426.4 of the Civil Code, relating to trade secrets.

[Approved by Governor July 7, 2006. Filed with Secretary of State July 7, 2006.]

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

SECTION 1. Section 3426.4 of the Civil Code is amended to read:

3426.4. If a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or resisted in bad faith, or willful and malicious misappropriation exists, the court may award reasonable attorney's fees and costs to the prevailing party. Recoverable costs hereunder shall include a reasonable sum to cover the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, preparation for trial or arbitration, or during trial or arbitration, of the case by the prevailing party.

CHAPTER 63

An act to amend Sections 11999.6, 11999.9, 11999.10, and 11999.12 of the Health and Safety Code, and to amend Sections 1210, 1210.1, and 3063.1 of the Penal Code, relating to drug treatment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. The Legislature finds and declares the following:

(a) On November 7, 2000, the people of the State of California enacted the Substance Abuse and Crime Prevention Act of 2000 (hereinafter the

act), codified in Sections 11999.5, 11999.6, 11999.9, 11999.10, and 11999.12 of the Health and Safety Code, and Sections 1210, 1210.1, and 3063.1 of the Penal Code to provide community-based substance abuse treatment programs for nonviolent defendants, probationers and parolees charged with simple drug possession or drug use offenses.

(b) The act provided an appropriation from the General Fund to the Substance Abuse Treatment Trust Fund in the amount of one hundred and twenty million dollars ($120,000,000) annually through the 2005–06 fiscal year with any additional appropriation dependent on review and action by the Legislature.

(c) Each year following the implementation of the act the Department of Alcohol and Drug Programs (hereinafter the department) was required and did in fact conduct a study to evaluate the effectiveness and financial impact of the programs which were funded pursuant to the act. The studies have focused on the implementation process, participant demographics and treatment completion rates as well as other impacts and issues the department identified. Reports were submitted to the Legislature by the department.

(d) In addition, the department contracted, as required by the act, with a public university, the University of California at Los Angeles (hereinafter UCLA) to evaluate the effectiveness and financial impact of the programs which were funded pursuant to the requirements of this act and to report findings that were in fact forwarded to the Legislature by the department.

(e) The UCLA evaluations have found that approximately 30 percent of referred SACPA offenders do not enter treatment. Judicial monitoring, through dedicated court calendars, collaboration and coordination between the courts, probation and treatment, as demonstrated by drug courts, would enhance entry, retention, and completion of treatment by offenders.

(f) The UCLA evaluations have found that 34 percent of those who do in fact enter treatment complete that treatment. This completion rate, as well as retention rates, can be improved through the enhancement of compliance with treatment, as well as tailoring treatment to the needs of offenders following drug-related violations of probation to assure that the level and duration of treatment they are assessed or reassessed to overcome addiction, including detoxification and residential services, are provided, and that treatment be of sufficient duration to meet individual needs of defendants.

(g) SACPA does not specifically address the use of short periods of jail time as a motivational tool to hold SACPA offenders accountable to enter and stay in treatment. Studies have reported that drug court clients were more likely to enter treatment, remained in treatment

significantly longer, and engaged in significantly less drug use when they received swift and sure sanctions and rewards, including the possibility of brief periods of jail time during the course of treatment. Therefore, sanctions including short periods of jail time for relapsing, problematic, or recalcitrant offenders, on a showing of need after consideration of important treatment and other factors, should be available, not as a substitute for treatment but as a tool to motivate and hold offenders accountable.

(h) The UCLA evaluations speak to the need to verify self-reported drug use by drug testing. Drug testing is widely accepted by treatment providers as an integral component of treatment. In addition, test results are needed to assist providers in adjusting treatment plans. Therefore, courts shall require drug testing as a condition of probation, commensurate with treatment needs.

(i) The UCLA evaluations also speak to the high cost in terms of arrests and convictions of violent crimes, property crimes, and sex crimes of those presently eligible defendants who have five or more convictions in the 30-month period prior to their SACPA eligible arrests in comparison to the typical SACPA offender, and recommend that the Legislature may wish to consider possible changes as to the eligibility of these offenders who UCLA found comprise 1.6 percent of the total number of offenders eligible for SACPA, yet had postconviction crime costs that were 10 times higher than the costs for the typical or median SACPA offender during the 30-month followup study period.

(j) It is the intent of the Legislature, therefore, to do all of the following to further the purposes of the act:

(1) Maintain the General Fund transfer to the Substance Abuse Treatment Trust Fund, conditioned on modifications to the SACPA program that will improve outcomes and promote accountability consistent with the act and to further the purposes of the act.

(2) Provide for closer judicial monitoring through dedicated calendars and close collaboration between the court, probation, and treatment to improve offender outcomes.

(3) Provide treatment, including detoxification and residential services that are tailored to the individual needs of offenders, and of sufficient duration to improve completion rates. In addition, permit judicial discretion to provide offenders additional opportunities following a third drug-related violation of probation, and first non-drug-related violation of probation to complete treatment, as well as, after a hearing, to remove offenders from the program who pose a danger to the public and, in addition, will not benefit from treatment.

(4) Provide brief jail sanctions to enhance accountability and as a motivational tool to improve the number of defendants who enter

treatment, remain in treatment, and complete treatment and probation consistent with the purposes of the act.

(5) Mandate drug testing as a treatment tool as well as a method to assure accountability.

(6) Provide that offenders who have five or more prior convictions at the time they commit a SACPA eligible offense are presumed to be eligible for SACPA. However, they may be found ineligible by the judge after consideration and findings at a hearing, if the offender poses a danger to the public or would not benefit from treatment.

(7) It is also the intent of the Legislature to address additional issues that need clarification, or were not adequately addressed by the act, that need to be resolved to further the purposes of the act, consistent with the act.

SEC. 2. Section 11999.6 of the Health and Safety Code is amended to read:

11999.6. Moneys deposited in the Substance Abuse Treatment Trust Fund shall be distributed annually by the Secretary of the Health and Human Services Agency through the State Department of Alcohol and Drug Programs to counties to cover the costs of placing persons in and providing drug treatment programs under this act, and vocational training, family counseling, and literacy training under this act. Additional costs that may be reimbursed from the Substance Abuse Treatment Trust Fund include probation department costs, court monitoring costs and any miscellaneous costs made necessary by the provisions of this act other than drug testing services of any kind. Incarceration costs cannot be reimbursed from the fund. Those moneys shall be allocated to counties through a fair and equitable distribution formula that includes, but is not limited to, per capita arrests for controlled substance possession violations and substance abuse treatment caseload, as determined by the department as necessary to carry out the purposes of this act. The department may reserve a portion of the fund to pay for direct contracts with drug treatment service providers in counties or areas in which the director of the department has determined that demand for drug treatment services is not adequately met by existing programs. However, nothing in this section shall be interpreted or construed to allow any entity to use funds from the Substance Abuse Treatment Trust Fund to supplant funds from any existing fund source or mechanism currently used to provide substance abuse treatment. In addition, funds from the Substance Abuse Treatment Trust Fund shall not be used to fund in any way the drug treatment courts established pursuant to Article 2 (commencing with Section 11970.1) or Article 3 (commencing with Section 11970.4) of Chapter 2 of Part 3 of Division 10.5, including drug treatment or probation supervision associated with those drug treatment courts.

SEC. 3. Section 11999.9 of the Health and Safety Code is amended to read:

11999.9. (a) The department shall conduct three two-year followup studies to evaluate the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act, and submit those studies to the Legislature no later than January 1, 2009, January 1, 2011, and January 1, 2013, respectively. The evaluation studies shall include, but not be limited to, a study of the implementation process, a review of lower incarcerations costs, reductions in crime, reduced prison and jail construction, reduced welfare costs, the adequacy of funds appropriated, and other impacts or issues the department can identify, in addition to all of the following:

(1) Criminal justice measures on rearrests, jail and prison days averted, and crime trends.

(2) A classification, in summary form, of rearrests as having occurred as a result of:

(A) A parole violation.

(B) A parole revocation.

(C) A probation violation.

(D) A probation revocation.

(3) A classification, in summary form, of the disposition of crimes committed in terms of whether the person was:

(A) Retained on probation.

(B) Sentenced to jail.

(C) Sentenced to prison.

(4) Treatment measures on completion rates and quality of life indicators, such as alcohol and drug used, employment, health, mental health, and family and social supports.

(5) A separate discussion of the information described in paragraphs (1) to (3), inclusive, for offenders whose primary drug of abuse was methamphetamine or who were arrested for possession or use of methamphetamine and, commencing with the report due on or before January 1, 2009, the report shall include a separate analysis of the costs and benefits of treatment specific to these methamphetamine offenders.

(b) In addition to studies to evaluate the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act, the department shall produce an annual report detailing the number and characteristics of participants served as a result of this act, and the related costs.

SEC. 4. Section 11999.10 of the Health and Safety Code is amended to read:

11999.10. The department shall allocate up to 0.5 percent of the fund's total moneys each year to fund the costs of the studies required in Section 11999.9 by a public or private university.

SEC. 5. Section 11999.12 of the Health and Safety Code is amended to read:

11999.12. The department shall conduct periodic audits of the expenditures made by any county that is funded, in whole or in part, with funds provided by this act. Counties shall repay to the department any funds that are not spent in accordance with the requirements of this act. The department may require a corrective action by the county in the place of repayment, as determined by the department.

SEC. 6. Section 1210 of the Penal Code is amended to read:

1210. As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code, the following definitions apply:

(a) The term "nonviolent drug possession offense" means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code. The term "nonviolent drug possession offense" does not include the possession for sale, production, or manufacturing of any controlled substance and does not include violations of Section 4573.6 or 4573.8.

(b) The term "drug treatment program" or "drug treatment" means a state licensed or certified community drug treatment program, which may include one or more of the following: drug education, outpatient services, narcotic replacement therapy, residential treatment, detoxification services, and aftercare services. The term "drug treatment program" or "drug treatment" includes a drug treatment program operated under the direction of the Veterans Health Administration of the Department of Veterans Affairs or a program specified in Section 8001. That type of program shall be eligible to provide drug treatment services without regard to the licensing or certification provisions required by this subdivision. The term "drug treatment program" or "drug treatment" does not include drug treatment programs offered in a prison or jail facility.

(c) The term "successful completion of treatment" means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment as recommended by the treatment provider and ordered by the court and, as a result, there is reasonable cause to believe that the defendant will

not abuse controlled substances in the future. Completion of treatment shall not require cessation of narcotic replacement therapy.

(d) The term "misdemeanor not related to the use of drugs" means a misdemeanor that does not involve (1) the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or (2) any activity similar to those listed in (1).

SEC. 7. Section 1210.1 of the Penal Code is amended to read:

1210.1. (a) Notwithstanding any other provision of law, and except as provided in subdivision (b), any person convicted of a nonviolent drug possession offense shall receive probation. As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court shall impose appropriate drug testing as a condition of probation. The court may also impose, as a condition of probation, participation in vocational training, family counseling, literacy training and/or community service. A court may not impose incarceration as an additional condition of probation. Aside from the limitations imposed in this subdivision, the trial court is not otherwise limited in the type of probation conditions it may impose. Probation shall be imposed by suspending the imposition of sentence. No person shall be denied the opportunity to benefit from the provisions of the Substance Abuse and Crime Prevention Act of 2000 based solely upon evidence of a co-occurring psychiatric or developmental disorder. To the greatest extent possible, any person who is convicted of, and placed on probation pursuant to this section for a nonviolent drug possession offense shall be monitored by the court through the use of a dedicated court calendar and the incorporation of a collaborative court model of oversight that includes close collaboration with treatment providers and probation, drug testing commensurate with treatment needs, and supervision of progress through review hearings.

In addition to any fine assessed under other provisions of law, the trial judge may require any person convicted of a nonviolent drug possession offense who is reasonably able to do so to contribute to the cost of his or her own placement in a drug treatment program.

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

(1) Any defendant who previously has been convicted of one or more violent or serious felonies as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, respectively, unless the nonviolent drug possession offense occurred after a period of five years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction other than a nonviolent drug possession offense, or a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(2) Any defendant who, in addition to one or more nonviolent drug possession offenses, has been convicted in the same proceeding of a misdemeanor not related to the use of drugs or any felony.

(3) Any defendant who, while armed with a deadly weapon, with the intent to use the same as a deadly weapon, unlawfully possesses or is under the influence of any controlled substance identified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code.

(4) Any defendant who refuses drug treatment as a condition of probation.

(5) Any defendant who has two separate convictions for nonviolent drug possession offenses, has participated in two separate courses of drug treatment pursuant to subdivision (a), and is found by the court, by clear and convincing evidence, to be unamenable to any and all forms of available drug treatment, as defined in subdivision (b) of Section 1210. Notwithstanding any other provision of law, the trial court shall sentence that defendant to 30 days in jail.

(c) (1) Any defendant who has previously been convicted of at least three non-drug-related felonies for which the defendant has served three separate prison terms within the meaning of subdivision (b) of Section 667.5 shall be presumed eligible for treatment under subdivision (a). The court may exclude such a defendant from treatment under subdivision (a) where the court, pursuant to the motion of the prosecutor or its own motion, finds that the defendant poses a present danger to the safety of others and would not benefit from a drug treatment program. The court shall, on the record, state its findings, the reasons for those findings.

(2) Any defendant who has previously been convicted of a misdemeanor or felony at least five times within the prior 30 months shall be presumed to be eligible for treatment under subdivision (a). The court may exclude such a defendant from treatment under subdivision (a) if the court, pursuant to the motion of the prosecutor, or on its own motion, finds that the defendant poses a present danger to the safety of others or would not benefit from a drug treatment program. The court shall, on the record, state its findings and the reasons for those findings.

(d) Within seven days of an order imposing probation under subdivision (a), the probation department shall notify the drug treatment provider designated to provide drug treatment under subdivision (a). Within 30 days of receiving that notice, the treatment provider shall prepare a treatment plan and forward it to the probation department for distribution to the court and counsel. The treatment provider shall provide to the probation department standardized treatment progress reports, with minimum data elements as determined by the department, including all drug testing results. At a minimum, the reports shall be provided to the court every 90 days, or more frequently, as the court directs.

(1) If at any point during the course of drug treatment the treatment provider notifies the probation department and the court that the defendant is unamenable to the drug treatment being provided, but may be amenable to other drug treatments or related programs, the probation department may move the court to modify the terms of probation, or on its own motion, the court may modify the terms of probation after a hearing to ensure that the defendant receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the probation department and the court that the defendant is unamenable to the drug treatment provided and all other forms of drug treatment programs pursuant to subdivision (b) of Section 1210, the probation department may move to revoke probation. At the revocation hearing, if it is proved that the defendant is unamenable to all drug treatment programs pursuant to subdivision (b) of Section 1210, the court may revoke probation.

(3) Drug treatment services provided by subdivision (a) as a required condition of probation may not exceed 12 months, unless the court makes a finding supported by the record, that the continuation of treatment services beyond 12 months is necessary for drug treatment to be successful. If such a finding is made, the court may order up to two six-month extensions of treatment services. The provision of treatment services under the Substance Abuse and Crime Prevention Act of 2000 shall not exceed 24 months.

(e) (1) At any time after completion of drug treatment and the terms of probation, the court shall conduct a hearing, and if the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, including refraining from the use of drugs after the completion of treatment, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment, complaint, or information against the defendant. In addition, except as provided in paragraphs (2) and (3), both the arrest and the conviction shall be deemed never to have occurred. The defendant may additionally petition the court for a dismissal of charges at any time after completion of the prescribed course of drug treatment. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

(2) Dismissal of an indictment, complaint, or information pursuant to paragraph (1) does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

(3) Except as provided below, after an indictment, complaint, or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

Regardless of his or her successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information, complaint, or indictment under this section does not relieve a defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

(f) (1) If probation is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section. The court may modify or revoke probation if the alleged violation is proved.

(2) If a defendant receives probation under subdivision (a), and violates that probation either by committing an offense that is not a nonviolent drug possession offense, or by violating a non-drug-related condition of probation, and the state moves to revoke probation, the court may remand the defendant for a period not exceeding 30 days during which time the court may receive input from treatment, probation, the state, and the defendant, and the court may conduct further hearings as it deems appropriate to determine whether or not probation should be reinstated under this section. If the court reinstates the defendant on probation, the court may modify the treatment plan and any other terms of probation, and continue the defendant in a treatment program under the Substance Abuse and Crime Prevention Act of 2000. If the court reinstates the defendant on probation, the court may, after receiving input from the treatment provider and probation, if available, intensify or alter the treatment plan under subdivision (a), and impose sanctions, including jail sanctions not exceeding 30 days, a tool to enhance treatment compliance.

(3) (A) If a defendant receives probation under subdivision (a), and violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register

as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may intensify or alter the drug treatment plan and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 48 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in such a facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(B) If a defendant receives probation under subdivision (a), and for the second time violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be

revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or is unamenable to drug treatment. In determining whether a defendant is unamenable to drug treatment, the court may consider, to the extent relevant, whether the defendant (i) has committed a serious violation of rules at the drug treatment program, (ii) has repeatedly committed violations of program rules that inhibit the defendant's ability to function in the program, or (iii) has continually refused to participate in the program or asked to be removed from the program. If the court does not revoke probation, it may intensify or alter the drug treatment plan, and may, in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, impose sanctions including jail sanctions that may not exceed 120 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in the facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. Detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(C) If a defendant receives probation under subdivision (a), and for the third or subsequent time violates that probation either by committing a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third or subsequent time to revoke probation, the court shall conduct a hearing to determine

whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a) unless the court determines that the defendant is not a danger to the community and would benefit from further treatment under subdivision (a). The court may then either intensify or alter the treatment plan under subdivision (a) or transfer the defendant to a highly structured drug court. If the court continues the defendant in treatment under subdivision (a), or drug court, the court may impose appropriate sanctions including jail sanctions as the court deems appropriate.

(D) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may modify or alter the treatment plan, and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 48 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available

in such a facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(E) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation a second time either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or that the defendant is unamenable to drug treatment. If the court does not revoke probation, it may modify or alter the treatment plan, and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 120 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in such a facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers

detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(F) If a defendant on probation at the effective date of this act for a nonviolent drug offense violates that probation a third or subsequent time either by committing a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third or subsequent time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a), unless the court determines that the defendant is not a danger to the community and would benefit from further treatment under subdivision (a). The court may then either intensify or alter the treatment plan under subdivision (a) or transfer the defendant to a highly structured drug court. If the court continues the defendant in treatment under subdivision (a), or drug court, the court may impose appropriate sanctions including jail sanctions.

(g) The term "drug-related condition of probation" shall include a probationer's specific drug treatment regimen, employment, vocational training, educational programs, psychological counseling, and family counseling.

SEC. 8. Section 3063.1 of the Penal Code is amended to read:

3063.1. (a) Notwithstanding any other provision of law, and except as provided in subdivision (d), parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole.

As an additional condition of parole for all such offenses or violations, the Parole Authority shall require participation in and completion of an appropriate drug treatment program. Vocational training, family counseling and literacy training may be imposed as additional parole conditions.

The Parole Authority may require any person on parole who commits a nonviolent drug possession offense or violates any drug-related condition of parole, and who is reasonably able to do so, to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) does not apply to:

(1) Any parolee who has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(2) Any parolee who, while on parole, commits one or more nonviolent drug possession offenses and is found to have concurrently committed a misdemeanor not related to the use of drugs or any felony.

(3) Any parolee who refuses drug treatment as a condition of parole.

(c) Within seven days of a finding that the parolee has either committed a nonviolent drug possession offense or violated any drug-related condition of parole, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations shall notify the treatment provider designated to provide drug treatment under subdivision (a). Within 30 days thereafter the treatment provider shall prepare an individualized drug treatment plan and forward it to the Parole Authority and to the California Department of Corrections and Rehabilitation, Division of Adult Parole Operations agent responsible for supervising the parolee. On a quarterly basis after the parolee begins drug treatment, the treatment provider shall prepare and forward a progress report on the individual parolee to these entities and individuals.

(1) If at any point during the course of drug treatment the treatment provider notifies the Department of Corrections and Rehabilitation, Division of Adult Parole Operations that the parolee is unamenable to the drug treatment provided, but amenable to other drug treatments or related programs, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations may act to modify the terms of parole to ensure that the parolee receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the Department of Corrections and Rehabilitation, Division of Adult Parole Operations that the parolee is unamenable to the drug treatment provided and all other forms of drug treatment provided pursuant to subdivision (b) of Section 1210 and the amenability factors described in subparagraph (B) of paragraph (3) of subdivision (e) of Section 1210.1, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations may act to revoke parole. At the revocation hearing, parole may be revoked if it is proved that the parolee is unamenable to all drug treatment.

(3) Drug treatment services provided by subdivision (a) as a required condition of parole may not exceed 12 months, unless the Department of Corrections and Rehabilitation, Division of Adult Parole Operations makes a finding supported by the record that the continuation of treatment services beyond 12 months is necessary for drug treatment to be successful. If that finding is made, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations may order up to two six-month extensions of treatment services. The provision of treatment services under this act shall not exceed 24 months.

(d) (1) If parole is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section. Parole

shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others.

(2) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by committing an offense other than a nonviolent drug possession offense, or by violating a non-drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked.

Parole may be modified or revoked if the parole violation is proved.

(3) (A) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be intensified to achieve the goals of drug treatment.

(B) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment for the second time violates that parole either by committing a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

(C) If a parolee already on parole at the effective date of this act violates that parole either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts to revoke parole, a hearing shall be conducted to determine whether parole shall be

revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be modified to include participation in a drug treatment program as provided in subdivision (a). This paragraph does not apply to any parolee who at the effective date of this act has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(D) If a parolee already on parole at the effective date of this act violates that parole for the second time either by committing a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the parole authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee may be reincarcerated or the conditions of parole may be intensified to achieve the goals of drug treatment.

(e) The term "drug-related condition of parole" shall include a parolee's specific drug treatment regimen, and, if ordered by the Department of Corrections and Rehabilitation, Division of Adult Parole Operations pursuant to this section, employment, vocational training, educational programs, psychological counseling, and family counseling.

SEC. 9. The provisions of this bill shall be applied prospectively. If any provision of this bill is found to be invalid, the entire legislative measure shall be submitted to the voters at the next statewide election.

SEC. 10. The Legislature finds and declares that the provisions of this act are consistent with the purposes of the Substance Abuse and Crime Prevention Act of 2000.

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.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the essential services provided under the Substance Abuse and Crime Prevention Act of 2000 continue to be

provided without interruption, it is necessary that this bill go into immediate effect.

CHAPTER 64

An act to amend Section 117700 of, and to add Sections 117671 and 118286 to, the Health and Safety Code, relating to medical waste.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

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

(a) The development of a safe, convenient, and cost-effective infrastructure for the collection of millions of home-generated sharps, and the public education programs to promote safe disposal of these sharps, will require a cooperative effort by the State Department of Health Services, the California Integrated Waste Management Board, local governments, large employers, dispensing pharmacies, as well as health care, solid waste, pharmaceutical industries, and manufacturers of sharps.

(b) Since mail-back programs utilizing containers that have been approved by the United States Postal Service offer one of the most convenient alternatives for the collection and destruction of home-generated sharps, local government and private sector stakeholders are encouraged to implement mail-back programs and to promote their use prior to September 1, 2008.

(c) Local governments, the California Integrated Waste Management Board, the State Department of Health Services, solid waste service providers, and manufacturers and dispensers of sharps are further encouraged to include information on their Web sites, and other public materials, that identify locations that accept home-generated sharps and provide information about available mail-back programs.

(d) It is the intent of the Legislature that the California Integrated Waste Management Board and the State Department of Health Services, to the extent resources are available, continue to monitor the state's progress in developing the infrastructure for the collection of home-generated sharps and inform the appropriate policy committees of any need for subsequent legislation to achieve the purposes of this act.

SEC. 2. Section 117671 is added to the Health and Safety Code, to read:

117671. "Home-generated sharps waste" means hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications derived from a household, including a multifamily residence or household.

SEC. 3. Section 117700 of the Health and Safety Code is amended to read:

117700. Medical waste does not include any of the following:

(a) Waste generated in food processing or biotechnology that does not contain an infectious agent as defined in Section 117675.

(b) Waste generated in biotechnology that does not contain human blood or blood products or animal blood or blood products suspected of being contaminated with infectious agents known to be communicable to humans.

(c) Urine, feces, saliva, sputum, nasal secretions, sweat, tears, or vomitus, unless it contains fluid blood, as provided in subdivision (d) of Section 117635.

(d) Waste which is not biohazardous, such as paper towels, paper products, articles containing nonfluid blood, and other medical solid waste products commonly found in the facilities of medical waste generators.

(e) Hazardous waste, radioactive waste, or household waste, including, but not limited to, home-generated sharps waste, as defined in Section 117671.

(f) Waste generated from normal and legal veterinarian, agricultural, and animal livestock management practices on a farm or ranch.

SEC. 4. Section 118286 is added to the Health and Safety Code, to read:

118286. (a) On or after September 1, 2008, no person shall knowingly place home-generated sharps waste in any of the following containers:

(1) Any container used for the collection of solid waste, recyclable materials, or greenwaste.

(2) Any container used for the commercial collection of solid waste or recyclable materials from business establishments.

(3) Any roll-off container used for the collection of solid waste, construction, and demolition debris, greenwaste, or other recyclable materials.

(b) On or after September 1, 2008, home-generated sharps waste shall be transported only in a sharps container, or other containers approved by the enforcement agency, and shall only be managed at any of the following:

(1) A household hazardous waste facility pursuant to Section 25218.13.

(2) A "home-generated sharps consolidation point" as defined in subdivision (b) of Section 117904.

(3) A medical waste generator's facility pursuant to Section 118147.

(4) A facility through the use of a medical waste mail-back container approved by the department pursuant to subdivision (b) of Section 118245.

CHAPTER 65

An act to amend Section 1 of Chapter 260 of the Statutes of 2004, relating to school employees.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 1 of Chapter 260 of the Statutes of 2004, as amended by Section 1 of Chapter 19 of the Statutes of 2005, is amended to read:

Section 1. For purposes of making reductions initiated during the 2006–07 or 2007–08 school years pursuant to Section 44955 of the Education Code in the number of employees because of a reduction in services or elimination of a juvenile camp program, a county superintendent of schools in a county of the first class may retain those employees until the effective date of the closure or reduction in services of that juvenile camp program.

CHAPTER 66

An act to amend Section 385.5 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 385.5 of the Vehicle Code is amended to read:

385.5. (a) A "low-speed vehicle" is a motor vehicle that meets all of the following requirements:

(1) Has four wheels.

(2) Can attain a speed, in one mile, of more than 20 miles per hour and not more than 25 miles per hour, on a paved level surface.

(3) Has a gross vehicle weight rating of less than 3,000 pounds.

(b) (1) For the purposes of this section, a "low-speed vehicle" is not a golf cart, except when operated pursuant to Section 21115 or 21115.1.

(2) A "low-speed vehicle" is also known as a "neighborhood electric vehicle."

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 conform the definition of "low-speed vehicle" to the federal definition at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 67

An act to amend Sections 21070, 21071, and 21072 of, and to amend the heading of Article 74 (commencing with Section 21070) of Chapter 1.5 of Part 3 of Division 2 of, the Public Contract Code, relating to local agency contracts.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. The heading of Article 74 (commencing with Section 21070) of Chapter 1.5 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 74. Ventura County Watershed Protection District

SEC. 2. Section 21070 of the Public Contract Code is amended to read:

21070. The provisions of this article shall apply to contracts by the Ventura County Watershed Protection District, as provided for in Chapter 44 of the Statutes of the 1944 Fourth Extraordinary Session.

SEC. 3. Section 21071 of the Public Contract Code is amended to read:

21071. (a) All contracts for any improvement or unit of work except as hereinafter provided estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of supervisors of the district shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in the district inviting sealed proposals for the construction of, the improvement or work before any contract shall be made therefor, and may let by contract separately any part of the work or improvement. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 5 of Part 4 of the Civil Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by force account or negotiated contract.

(b) The district shall have the power to purchase in the open market without advertising for bids therefor, materials, supplies, equipment, and other personal property for use in any work therewith either under contract or by force account where the costs thereof do not exceed ten thousand dollars ($10,000). It shall be the duty of the purchasing agent of Ventura County, as the ex officio purchasing agent of the Ventura County Watershed Protection District, unless otherwise ordered by the board of supervisors, to purchase for the district all materials, supplies, equipment, and other personal property necessary to carry out the purposes of this act, and to engage independent contractors to perform sundry services for the district, where the aggregate cost of such work, exclusive of materials to be furnished by the district, does not exceed ten thousand dollars ($10,000).

(c) The purchasing agent shall make all such purchases and contracts upon proper requisition therefor, signed by the engineer-manager of the district, or his or her authorized representative.

(d) If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing in connection therewith, and if the cost of labor and materials for such work according to the engineer's estimate will exceed five thousand dollars ($5,000), and if the work is not of the type of work referred to in this section, such maintenance and alteration work shall be performed under a contract or contracts that shall be let to the lowest responsible bidder or bidders in the manner described in this section.

SEC. 4. Section 21072 of the Public Contract Code is amended to read:

21072. (a) Emergency work may be done by negotiated contract without advertising for bids or requiring bonds.

(b) In case of an emergency, if notice for bids to let contracts will not be given, the board of supervisors shall comply with Chapter 2.5 (commencing with Section 22050).

CHAPTER 68

An act to amend Sections 5093.35, 5625, 6331.5, 9952, and 13116.5 of the Public Resources Code, relating to public resources.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 5093.35 of the Public Resources Code is amended to read:

5093.35. (a) The secretary, in cooperation with each department within the Resources Agency, shall review state-owned roadless areas under his or her jurisdiction as of January 1, 1975, including, but not limited to, lands within the state park system, state forests, and fish and game refuges, reserves, sanctuaries, and other areas designated for the protection of wildlife, but not including tide and submerged lands lying below the mean high tide line, and shall report to the Legislature his or her recommendations as to the suitability or nonsuitability of each area for preservation as state wilderness.

(b) The State Lands Commission shall review state-owned roadless areas under its jurisdiction that have been identified as possessing significant environmental values pursuant to Section 6370.2, and shall report to the Legislature its recommendations as to the suitability or nonsuitability of each area for preservation as wilderness.

(c) Additional reviews and reports as to suitability or nonsuitability for preservation as wilderness shall be made by the secretary and the State Lands Commission for the following areas:

(1) State-owned roadless areas under their respective jurisdictions and within or contiguous to federal wilderness areas designated by the Congress after January 1, 1975, within one year after the designation.

(2) State-owned roadless areas under their respective jurisdictions that are acquired after January 1, 1975, within three years of the acquisition.

(d) The secretary and the State Lands Commission, prior to submitting recommendations with respect to the suitability of an area for preservation as a wilderness area, shall:

(1) Give public notice of the proposed action as deemed appropriate, including publication in one or more newspapers of general circulation in each county within which the affected area is located, and mailed to every person who has filed a request for notice of hearing. If the notice of hearing is published in a weekly newspaper, it must appear therein on at least two different days of publication, and, if in a newspaper published more often, there must be at least five days from the first to the last day of publication, both days included. The content of the notice of hearing shall substantially comply with the requirements of Section 11346.5 of the Government Code.

(2) Hold a public hearing or hearings in the City of San Diego, City of Los Angeles, City and County of San Francisco, or City of Sacramento, whichever is closest to the area affected, not less than 30 days, nor more than 60 days, after the last date of publication of the notice. The hearing shall be conducted in the manner specified in Section 11346.8 of the Government Code.

(3) Advise, at least 30 days before the date of a hearing, the board of supervisors of each county where the lands are located, and federal, state, and local agencies concerned, and invite those officials and agencies to submit their views on the proposed action at the hearing or within a specified period thereafter.

(e) A view submitted under the provisions of subdivision (d) with respect to an area shall be included with recommendations to the Legislature with respect to that area.

(f) A modification or adjustment of boundaries of a wilderness area designated by the Legislature shall be recommended to the Legislature by the secretary or the State Lands Commission after public notice of the proposal and public hearing or hearings as provided in subdivision (d).

(g) Nothing contained in this section shall be construed to lessen the present statutory authority of a state agency with respect to the maintenance of roadless areas.

(h) Privately owned areas within or contiguous to state-owned areas shall not preclude the review of the state-owned areas as provided in this section.

SEC. 2. Section 5625 of the Public Resources Code is amended to read:

5625. (a) Annual grants shall be made to cities, counties, and districts for recreational purposes, open-space purposes, or both, on the basis of population and need, as specified in this chapter. The director shall, by regulation, specify the procedures to be followed in applying for grant funds. The director shall propose criteria for determining priority of need, conduct public hearings on those proposed criteria, and, following the hearings, shall submit the proposed criteria to the Legislature for its approval by statute within 60 days of submission of the criteria. A new, revised, or amended criterion or a criterion to be deleted shall be submitted to the Legislature for its approval by statute. Following legislative approval, the director shall establish the criteria and publish them in the California Code of Regulations. The criteria, and a change thereof, shall be distributed in a convenient form to potential applicants.

(b) The director shall, by regulation, require the recipient of a grant under this chapter to submit periodic reports to the department with respect to its use of the grant, but the reports shall not be required to be submitted more frequently than annually.

(c) All projects and programs for which a grant is received shall be subject to state audit.

SEC. 3. Section 6331.5 of the Public Resources Code is amended to read:

6331.5. The commission shall make an inventory to ascertain and describe by metes and bounds the location and extent of all ungranted tidelands. The commission shall, in a local agency where the ungranted tideland boundary is described by metes and bounds, acquire and evaluate the existing boundary description to determine whether or not additional surveys should be conducted. When available, the local agency shall provide copies of the descriptions, together with all materials supporting the descriptions, including field notes and other basic data, to the commission at no cost, other than the reproduction cost, to the state.

No appropriation is made by the act adding this section, nor is an obligation created thereby, for the reimbursement of a local agency for costs, other than reproduction costs, that may be incurred by it in carrying on a program or performing a service required to be carried on or performed by it by this section. Reimbursements for reproduction

expenditures shall be made by the commission from appropriations to the commission for the preparation of the inventory.

The commission shall evaluate each survey and shall adopt boundary descriptions already in common use where these metes and bounds descriptions approximate the existing line of ordinary high water where it is in a state of nature, or where the descriptions approximate the last position occupied in a state of nature by the line of ordinary high water in areas where the existing shoreline has ceased to be in a state of nature, and where sound engineering practices were used to conduct the survey. If metes and bounds descriptions of tideland boundaries are not available, or if the surveys do not describe the tideland boundary in a state of nature as hereinbefore defined, or if unsound engineering practices were used to describe a tideland boundary, the commission may conduct its own survey. Unless otherwise provided by law, prior to undertaking a survey on ungranted tidelands, the commission shall prepare an inventory of those ungranted tidelands that will require a commission survey and shall submit a report of its findings to the Legislature. The report shall contain a geographic identification of the ungranted tidelands that will require a survey, a plan establishing priorities for the orderly conduct of the needed surveys, and an estimate of the cost needed to complete the surveys.

SEC. 4. Section 9952 of the Public Resources Code is amended to read:

9952. (a) Except as otherwise provided in this chapter, the organization and functions of the Tahoe Resource Conservation District shall be governed by the provisions of this division.

(b) The initial Board of Directors of the Tahoe Resource Conservation District shall be composed of the following five persons who shall each be an owner of land within the area described in Section 9951:

(1) One person appointed by the California Tahoe Regional Planning Agency who may be a member of that agency.

(2) One person appointed by the City of South Lake Tahoe.

(3) One person appointed by the Board of Supervisors of El Dorado County.

(4) Two persons appointed by the Board of Supervisors of Placer County.

(c) Successors to the members of the initial board of directors shall be elected at a general resource conservation district election in accordance with this division.

(d) Moneys received by a resource conservation district pursuant to Section 9505 on lands transferred to the Tahoe Resource Conservation District shall be transferred to the Tahoe Resource Conservation District, and all costs of establishing the Tahoe Resource Conservation District

shall be a first charge on those funds. The Board of Directors of the Tahoe Resource Conservation District shall determine whether the treasury of Placer County or of El Dorado County shall be the depository of the funds of the Tahoe Resource Conservation District for the purposes of Article 2 (commencing with Section 9521) of Chapter 4.

SEC. 5. Section 13116.5 of the Public Resources Code is amended to read:

13116.5. An action to determine the validity of bonds may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

CHAPTER 69

An act to amend Sections 7076, 12587.1, 12950, 13405, 13406, 14612.2, 16418, 68085, 68203, 68661, 77202, and 77209 of, to amend the heading of Chapter 2.3 (commencing with Section 68660) of Title 8 of, and to add Sections 11012.5, 12513.1, 13309, 19822.3, 76104.7, and 84602.1 to, the Government Code, to amend Sections 1348.9 and 53533 of the Health and Safety Code, to amend Sections 1684, 1698, 4603.2 of, to add Section 4903.6 to, and to repeal Section 4903.05 of, the Labor Code, to amend Sections 290.3 and 295 of the Penal Code, to amend Sections 42100, 42101, 42101.1, and 42104 of the Public Resources Code, to add Section 325.6 to the Unemployment Insurance Code, to amend Section 5066 of the Vehicle Code, and to add Article 18.9 (commencing with Section 749.5) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 7076 of the Government Code is amended to read:

7076. (a) (1) The department shall provide technical assistance to the enterprise zones designated pursuant to this chapter with respect to all of the following activities:

(A) Furnish limited onsite assistance to the enterprise zones when appropriate.

(B) Ensure that the locality has developed a method to make residents, businesses, and neighborhood organizations aware of the opportunities to participate in the program.

(C) Help the locality develop a marketing program for the enterprise zone.

(D) Coordinate activities of other state agencies regarding the enterprise zones.

(E) Monitor the progress of the program.

(F) Help businesses to participate in the program.

(2) Notwithstanding existing law, the provision of services in subparagraphs (A) to (F), inclusive, shall be a high priority of the department.

(3) The department may, at its discretion, undertake other activities in providing management and technical assistance for successful implementation of this chapter.

(b) The applicant shall be required to begin implementation of the enterprise zone plan contained in the final application within six months after notification of final designation or the enterprise zone shall lose its designation.

(c) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each enterprise zone a fee of not more than ten dollars ($10) for each application it accepts for issuance of a certificate pursuant to subdivision (c) of Section 17053.74 of the Revenue and Taxation Code and subdivision (c) of Section 23622.7 of the Revenue and Taxation Code. The enterprise zone administrator may collect this fee at the time he or she accepts an application for issuance of a certificate.

(d) Any fee assessed and collected pursuant to subdivision (c) shall be refundable if the certificate issued by the local government pursuant to subdivision (c) of Section 17053.74 of the Revenue and Taxation Code and subdivision (c) of Section 23622.7 of the Revenue and Taxation Code is not accepted by the Franchise Tax Board.

SEC. 2. Section 11012.5 is added to the Government Code, to read:

11012.5. (a) The Director of General Services may exercise the option to accelerate the vesting of title in the state as set forth in the lease purchase agreement dated as of December 29, 1993, of the land and buildings located in the City and County of Sacramento, California, consisting of the entire office building located at 450 “N” Street containing approximately 616,730 gross square feet, a parking garage, including approximately 711 exclusive parking spaces, on the block bounded by “N” Street and “O” Street, 4th Street and 5th Street, and all

associated improvements, for a price not to exceed eighty-one million dollars ($81,000,000).

(b) (1) The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800)) to finance the acquisition of the facilities authorized by subdivision (a) by exercise of the option to accelerate.

(2) The Department of General Services and the State Public Works Board may borrow funds for the acquisition and related project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313.

(3) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the cost of acquisition by exercise of the option to accelerate, any additional sums necessary to pay interim and permanent financing costs and costs of issuance of the bonds. The additional amount may include interest, a reasonable required reserve fund, and the Department of General Services' costs and expenses incurred with the exercise of the option to accelerate.

(c) In the event the bonds authorized for the projects are not sold, the Department of General Services shall adjust the Service Revolving Fund by an amount sufficient to repay any loans made by the Pooled Money Investment Account.

(d) Notwithstanding Section 13340, funds derived from the interim and permanent financing or refinancing of the facilities specified in this section are hereby continuously appropriated without regard to fiscal years for these purposes.

SEC. 3. Section 12513.1 is added to the Government Code, to read:

12513.1. Any person who fails to pay on a timely basis any liability or penalty imposed by or on behalf of any state agency or official, the People of the State of California, the State of California, or any liability or penalty otherwise imposed in any matter prosecuted by the Attorney General, shall be required to pay, in addition to that liability or penalty, interest, reasonable attorneys' fees, and costs for any collection proceedings to enforce payment.

SEC. 4. Section 12587.1 of the Government Code is amended to read:

12587.1. (a) The Registry of Charitable Trusts Fund is hereby established in the State Treasury, to be administered by the Department of Justice.

(b) Notwithstanding any other provision of law, all registration fees, registration renewal fees, and late fees or other fees paid to the Department of Justice pursuant to this article, Section 2850 of the Probate

Code, or Section 320.5 of the Penal Code, shall be deposited in the Registry of Charitable Trusts Fund.

(c) Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General solely to operate and maintain the Attorney General's Registry of Charitable Trusts and Registry of Conservators, Guardians, and Trustees, and provide public access via the Internet to reports filed with the Attorney General.

SEC. 5. Section 12950 of the Government Code is amended to read:

12950. In addition to employer responsibilities set forth in subdivisions (j) and (k) of Section 12940 and in rules adopted by the department and the commission, every employer shall act to ensure a workplace free of sexual harassment by implementing the following minimum requirements:

(a) The department shall amend its current poster on discrimination in employment to include information relating to the illegality of sexual harassment. This amended poster shall be distributed to employers when the supply of the current poster is exhausted. One copy of the amended poster shall be provided by the department to an employer upon request. The amended poster shall be available at each office of the department, and shall be mailed if the request includes a self-addressed envelope with postage affixed. Multiple copies of the amended poster shall be made available online by the Department of Fair Employment and Housing. Each employer shall post the amended poster in a prominent and accessible location in the workplace.

(b) Each employer shall obtain from the department its information sheet on sexual harassment, which the department shall make available to employers for reproduction and distribution to employees. One copy of the information sheet shall be provided by the department to an employer upon request. The information sheets shall be available at each office of the department, and shall be mailed if the request includes a self-addressed envelope with postage affixed. Multiple copies of the information sheet shall be made available online by the Department of Fair Employment and Housing. Each employer shall distribute this information sheet to its employees, unless the employer provides equivalent information to its employees that contains, at a minimum, components on the following:

(1) The illegality of sexual harassment.

(2) The definition of sexual harassment under applicable state and federal law.

(3) A description of sexual harassment, utilizing examples.

(4) The internal complaint process of the employer available to the employee.

(5) The legal remedies and complaint process available through the department and the commission.

(6) Directions on how to contact the department and the commission.

(7) The protection against retaliation provided by Section 7287.8 of Title 2 of the California Code of Regulations for opposing the practices prohibited by this article or for filing a complaint with, or otherwise participating in an investigation, proceeding, or hearing conducted by, the department or the commission.

(c) The information sheet or information required to be distributed to employees pursuant to subdivision (b) shall be delivered in a manner that ensures distribution to each employee, such as including the information sheet or information with an employee's pay.

(d) Notwithstanding subdivisions (j) and (k) of Section 12940, a claim that the information sheet or information required to be distributed pursuant to this section did not reach a particular individual or individuals shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer's compliance with this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(e) If an employer violates the requirements of this section, the commission shall issue an order requiring the employer to comply with these requirements.

SEC. 6. Section 13309 is added to the Government Code, to read:

13309. (a) The Director of Finance shall reconcile with the Controller, and report to the Joint Legislative Budget Committee by October 1 of each year, the number of permanent employees by department appointed as full-time or part-time tenure in blanket positions for more than six consecutive months in the immediately preceding fiscal year.

(b) For purposes of this section, "blanket positions" are those positions included in the temporary help category for purposes of the state budget.

SEC. 7. Section 13405 of the Government Code is amended to read:

13405. (a) To ensure that the requirements of this chapter are fully complied with, the head of each state agency that the director determines is covered by this section shall, on a biennial basis but no later than December 31 of each odd-numbered year, conduct an internal review and prepare a report on the adequacy of the agency's systems of internal accounting and administrative control in accordance with the guide prepared by the director pursuant to subdivision (d).

(b) The report, including the state agency's response to review recommendations, shall be signed by the head of the agency and addressed to the agency secretary, or the director for agencies without

a secretary. Copies of the reports shall be submitted to the Legislature, the State Auditor, the Governor, the director, and to the State Library where they shall be available for public inspection.

(c) The report shall identify any material inadequacy or material weakness in an agency's systems of internal accounting and administrative control that prevents the head of the agency from stating that the agency's systems comply with this chapter. No later than 30 days after the report is submitted, the agency shall provide to the director a plan and schedule for correcting the identified inadequacies and weaknesses, which shall be updated every six months until all corrections are completed.

(d) The director, in consultation with the State Auditor and the Controller, shall establish, and may modify from time to time as necessary, a system of reporting and a general framework to guide state agencies in conducting internal reviews of their systems of internal accounting and administrative control.

SEC. 8. Section 13406 of the Government Code is amended to read:

13406. (a) The head of the internal audit staff of a state agency or a division, as specified by the director, or, in the event there is no internal audit function, a professional accountant, if available on the staff, designated as the internal control person by the head of the state agency or a division, shall receive and investigate any allegation that an employee of the agency provided false or misleading information in connection with the review of the agency's systems of internal accounting and administrative control or in connection with the preparation of the biennial report on the systems of internal accounting and administrative control.

(b) If, in connection with any investigation under subdivision (a), the head of the internal audit staff or the designated internal control person determines that there is reasonable cause to believe that false or misleading information was provided, he or she shall report in writing that determination to the head of the agency or the division.

(c) The head of the agency or division shall review any matter referred to him or her under subdivision (b), shall take such disciplinary or corrective action as he or she deems necessary, and shall forward a copy of the report, indicating therein the action taken, to the director within 90 days of the date of the report.

SEC. 9. Section 14612.2 of the Government Code is amended to read:

14612.2. (a) Notwithstanding Chapter 7 (commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may

offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars ($5,000).

(b) This section shall remain operative only until the effective date of the Budget Act of 2007 or July 1, 2007, whichever is later, and as of January 1, 2008, is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 16418 of the Government Code is amended to read:

16418. (a) The Special Fund for Economic Uncertainties is hereby created in the State Treasury and is continuously appropriated for the purposes of this section. The contingency reserve for economic uncertainties established within the General Fund by Section 12.3 of the Budget Act of 1980 is hereby discontinued, and any balance in that reserve shall be transferred to the Special Fund for Economic Uncertainties. This special fund represents a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution. Notwithstanding Sections 16310 and 16314, the Controller may transfer as necessary from the Special Fund for Economic Uncertainties or from the special accounts in the General Fund to the General Fund amounts that are needed to meet cash needs of the General Fund. The Controller shall return all of the moneys so transferred without payment of interest as soon as there are sufficient moneys in the General Fund.

(b) The Controller shall transfer from the Special Fund for Economic Uncertainties to the unappropriated balance of the General Fund an amount necessary to eliminate any General Fund deficit as of the end of each fiscal year, commencing as of June 30, 1985. The amount of transfer for each fiscal year shall be determined on the basis of the State of California Preliminary Annual Report—Accrual Basis, for that fiscal year. Any subsequent adjustments shall be determined jointly by the Controller and the Director of Finance.

(c) Notwithstanding Section 13340, moneys in the Special Fund for Economic Uncertainties are hereby continuously appropriated without regard to fiscal years to the Director of Finance for the purpose of allocating funds for disaster relief pursuant to Chapter 5 (commencing with Section 194) and Chapter 6 (commencing with Section 197) of Part 1 of Division 1 of the Revenue and Taxation Code. However, any allocation made by the director pursuant to this subdivision shall not be

made sooner than 30 days after notification in writing of the necessity therefor is provided to the Joint Legislative Budget Committee.

(d) For budgeting and accounting purposes, any appropriations heretofore or hereafter made specifically from the Special Fund for Economic Uncertainties, other than appropriations contained in this section, shall be deemed an appropriation from the General Fund. For year-end reporting purposes, the Controller shall add the balance in the Special Fund for Economic Uncertainties to the balance in the General Fund so as to show the total moneys then available for General Fund purposes.

(e) (1) Notwithstanding Section 13340, there is hereby appropriated from the General Fund, without regard to fiscal years, for transfer by the Controller to the Special Fund for Economic Uncertainties as of the end of each fiscal year the unencumbered balance in the General Fund.

(2) If, at the end of any fiscal year in which it has been determined that there are revenues in excess of the amount that may be appropriated, as defined in subdivision (a) of Section 2 of Article XIII B of the California Constitution, the transfer pursuant to paragraph (1) shall be reduced by the amount of these excess revenues. The estimates of the transfer shall be made jointly by the Department of Finance and the Legislative Analyst's Office.

SEC. 11. Section 19822.3 is added to the Government Code, to read:

19822.3. All state agencies shall implement and use the California Automated Travel Expense Reimbursement System (CalATERS) to automate processing of employee travel claims by July 1, 2009, unless the Controller recommends, and the Department of Finance approves, an exemption request. To request an exemption, a department or agency shall submit documentation to the Controller no later July 1, 2007, to substantiate that the implementation of CalATERS is not feasible or cost-effective for that department or agency. The Department of Finance and the Controller shall jointly report to the Joint Legislative Budget Committee, not later than February 1, 2008, on the exemptions that have been approved and the bases for the exemptions.

SEC. 12. Section 68085 of the Government Code is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned for the purposes authorized in this section, including apportionment to the trial courts to fund trial court operations, as defined in Section 77003.

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(A) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize the direct

payment or reimbursement or both of actual costs from the Trial Court Trust Fund or the Trial Court Improvement Fund to fund the costs of operating one or more trial courts upon the consent of participating courts. These paid or reimbursed costs may be for services provided to the court or courts by the Administrative Office of the Courts or payment for services or property of any kind contracted for by the court or courts or on behalf of the courts by the Administrative Office of the Courts. The amount of appropriations from the Trial Court Improvement Fund under this subdivision may not exceed 20 percent of the amount deposited in the Trial Court Improvement Fund pursuant to subdivision (a) of Section 77205. The direct payment or reimbursement of costs from the Trial Court Trust Fund may be supported by the reduction of a participating court's allocation from the Trial Court Trust Fund to the extent that the court's expenditures for the program are reduced and the court is supported by the expenditure. The Judicial Council shall provide the affected trial courts with quarterly reports on expenditures from the Trial Court Trust Fund incurred as authorized by this subdivision. The Judicial Council shall establish procedures to provide for the administration of this paragraph in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

(B) As used in subparagraph (A), the term "costs of operating one or more trial courts" includes any expenses related to operation of the court or performance of its functions, including, but not limited to, statewide administrative and information technology infrastructure supporting the courts. The term "costs of operating one or more trial courts" is not restricted to items considered "court operations" pursuant to Section 77003, but is subject to policies, procedures, and criteria established by the Judicial Council, and may not include an item that is a cost that must otherwise be paid by the county or city and county in which the court is located.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted monthly to the Controller for deposit in the Trial Court Trust Fund.

(c) (1) Except as specified in subdivision (d), this section applies to all fees collected on or before December 31, 2005, pursuant to Sections 631.3, 116.230, and 403.060 of the Code of Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 68086, 72055, 72056, 72056.01, and 72060.

(2) Notwithstanding any other provision of law, except as specified in subdivision (d) of this section and subdivision (a) of Section 68085.7, this section applies to all fees and fines collected on or before December

31, 2005, pursuant to Sections 116.390, 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160, 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure, Sections 26824, 26828, 26829, 26834, and 72059 of the Government Code, and subdivisions (b) and (c) of Section 166 and Section 1214.1 of the Penal Code.

(3) If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 that is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238. This section also does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(e) This section applies to all payments required to be made to the State Treasury by any county or city and county pursuant to Section 77201, 77201.1, or 77205.

(f) Notwithstanding any other provision of law, no agency may take action to change the amounts allocated to any of the funds described in subdivision (a), (b), (c), or (d).

(g) The Judicial Council shall reimburse the Controller for the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance that is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 1½ percent per month for the number of days the

payment is delinquent. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse to a county's general fund pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(j) Penalty amounts calculated pursuant to subdivision (i) shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund quarterly and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council.

(*l*) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible.

(m) Except for subdivisions (a) and (k), this section does not apply to fees and fines that are listed in subdivision (a) of Section 68085.1 that are collected on or after January 1, 2006.

SEC. 13. Section 68203 of the Government Code is amended to read:

68203. (a) On July 1, 1980, and on July 1 of each year thereafter, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall be increased by the amount that is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California State employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.

(b) For the purposes of this section, salary increases for state employees shall be those increases as reported by the Department of Personnel Administration.

(c) The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall in no case exceed 5 percent.

(d) On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2000, by 8 ½ percent.

(e) On January 1, 2007, the salary of the justices and judges identified in Sections 68200 to 68202, inclusive, and 68203.1 shall also be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2006, by 8.5 percent.

SEC. 14. The heading of Chapter 2.3 (commencing with Section 68660) of Title 8 of the Government Code is amended to read:

CHAPTER 2.3. CALIFORNIA HABEAS CORPUS RESOURCE CENTER

SEC. 15. Section 68661 of the Government Code is amended to read:

68661. There is hereby created in the judicial branch of state government the California Habeas Corpus Resource Center, which shall have all of the following general powers and duties:

(a) To employ up to 34 attorneys who may be appointed by the Supreme Court to represent any person convicted and sentenced to death in this state who is without counsel, and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting postconviction actions in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, and preparing petitions for executive clemency. Any such appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To seek reimbursement for representation and expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts and process those payments via the Federal Trust Fund.

(c) To work with the Supreme Court in recruiting members of the private bar to accept death penalty habeas case appointments.

(d) To establish and periodically update a roster of attorneys qualified as counsel in postconviction proceedings in capital cases.

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to assist counsel in postconviction proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to appointed counsel upon request of counsel, provided that when the provision of those services is to private counsel under appointment by the Supreme Court, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice or, to the extent not otherwise available, any other assistance to appointed counsel in postconviction proceedings as is appropriate when not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues that arise in postconviction proceedings in capital cases and to make those briefs available to appointed counsel.

(i) To evaluate cases and recommend assignment by the court of appropriate attorneys.

(j) To provide assistance and case progress monitoring as needed.

(k) To timely review case billings and recommend compensation of members of the private bar to the court.

(*l*) The center shall report annually to the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent persons in postconviction capital cases, and on the operations of the center. On or before January 1, 2000, the office of the Legislative Analyst shall evaluate the available reports.

SEC. 16. 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, which shall be submitted to the Governor and the Legislature, shall meet the needs of all trial courts in a manner that ensures a predictable fiscal environment for labor negotiations in accordance with the Trial Court Employment Protection and Governance Act, that promotes equal access to the courts statewide, and that promotes court financial accountability. The annual budget request shall include the following components:

(1) Commencing with the 2006–07 fiscal year, annual General Fund appropriations to support the trial courts shall be comprised of both of the following:

(A) The current fiscal year General Fund appropriations, which include all of the following:

(i) General Fund moneys appropriated for transfer or direct local assistance in support of the trial courts.

(ii) Transfers to the Judicial Administration Efficiency and Modernization Fund.

(iii) Local assistance grants made by the Judicial Council, including the Equal Access Fund.

(iv) The full year cost of budget change proposals approved through the 2006–07 fiscal year or subsequently approved in accordance with paragraph (2), but excluding lease-revenue payments and funding for costs specifically and expressly reimbursed through other state or federal funding sources, excluding the cost of one-time or expiring programs.

(B) A cost-of-living and growth adjustment computed by multiplying the year-to-year percentage change in the state appropriation limit as described in Section 3 of Article XIII B of the California Constitution by the sum of all of the following:

(i) The current year General Fund appropriations for the trial courts, as defined in subparagraph (A).

(ii) The amount of county obligations established pursuant to subdivision (b) of Section 77201.1 in effect as of June 30, 2005, six hundred ninety-eight million sixty-eight thousand dollars ($698,068,000).

(iii) The level of funding required to be transferred from the Trial Court Improvement Fund to the Trial Court Trust Fund pursuant to

subdivision (k) of Section 77209, thirty-one million five hundred sixty-three thousand dollars ($31,563,000).

(iv) Funding deposited into the Court Facilities Trust Fund associated with each facility that was transferred to the state not less than two fiscal years earlier than the fiscal year for which the cost-of-living and growth adjustment is being calculated.

(v) The court filing fees and surcharges projected to be deposited into the Trial Court Trust Fund in the 2005–06 fiscal year, adjusted to reflect the full-year implementation of the uniform civil fee structure implemented on January 1, 2006, three hundred sixty-nine million six hundred seventy-two thousand dollars ($369,672,000).

(2) In addition to the moneys to be applied pursuant to subdivision (b), the Judicial Council may identify and request additional funding for the trial courts for costs resulting from the implementation of statutory changes that result in either an increased level of service or a new activity that directly affects the programmatic or operational needs of the courts.

(b) The Judicial Council shall allocate the funding from the Trial Court Trust Fund 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 allocations to the trial courts recognize 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.

(c) (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 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. 17. Section 77209 of the Government Code is amended to read:

77209. (a) There is in the State Treasury the Trial Court Improvement Fund.

(b) The Judicial Council shall reserve funds for projects by transferring 1 percent of the amount appropriated for support for operation of the trial courts to the Trial Court Improvement Fund. At least one-half of this amount shall be set aside as a reserve that shall not be allocated prior to March 15 of each year unless allocated to a court or courts for urgent needs.

(c) Any funds in the Trial Court Improvement Fund that are unencumbered at the end of the fiscal year shall be reappropriated to the Trial Court Improvement Fund for the following fiscal year.

(d) Moneys deposited in the Trial Court Improvement Fund shall be placed in an interest bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (e).

(e) Moneys deposited in the Trial Court Improvement Fund may be disbursed for purposes of this section.

(f) Moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council for automated administrative system improvements pursuant to that section and in furtherance of Rule 991 of the California Rules of Court, as it read on July 1, 1996. As used in this subdivision, "automated

administrative system" does not include electronic reporting systems for use in a courtroom.

(g) Moneys deposited in the Trial Court Improvement Fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate to the Administrative Director of the Courts the administration of the fund. Moneys in the fund may be expended to implement trial court projects approved by the Judicial Council. Expenditures may be made to vendors or individual trial courts that have the responsibility to implement approved projects.

(h) Notwithstanding other provisions of this section, the 2 percent automation fund moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council to statewide initiatives related to trial court automation and their implementation. The Judicial Council shall allocate the remainder of the moneys deposited in the Trial Court Improvement Fund as specified in this section.

For the purposes of this subdivision, the term "2 percent automation fund" means the fund established pursuant to Section 68090.8 as it read on June 30, 1996. As used in this subdivision, "statewide initiatives related to trial court automation and their implementation" does not include electronic reporting systems for use in a courtroom.

(i) Royalties received from the publication of uniform jury instructions shall be deposited in the Trial Court Improvement Fund and used for the improvement of the jury system.

(j) The Judicial Council shall present an annual report to the Legislature on the use of the Trial Court Improvement Fund. The report shall include appropriate recommendations.

(k) Each fiscal year, the Controller shall transfer thirty-one million five hundred sixty-three thousand dollars ($31,563,000) from the Trial Court Improvement Fund to the Trial Court Trust Fund for allocation to trial courts for court operations.

SEC. 18. Section 76104.7 is added to the Government Code, to read:

76104.7. In addition to the penalty levied pursuant to Section 76104.6, there shall be levied an additional state-only penalty of one dollar ($1) for every ten dollars ($10) or fraction thereof in each county, which shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior

to any division pursuant to Section 1463 of the Penal Code. These funds shall be deposited into the county treasury DNA Identification Fund. One hundred percent of these funds, including any interest earned thereon, shall be transferred to the state Controller at the same time that moneys are transferred pursuant to paragraph (2) of subdivision (b) of Section 76104.6, for deposit into the state's DNA Identification Fund. These funds may be used to fund the operation of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

SEC. 19. Section 84602.1 is added to the Government Code, to read:

84602.1. (a) The Secretary of State shall, on or before June 30, 2007, fully implement this chapter as specified in Section 84602, including completing online lobbying registration forms so that all forms can be filed online as specified in Section 84602.

(b) On or before February 1, 2007, the Secretary of State shall report to the Legislature on all of the following:

(1) The implementation and development of the online and electronic filing and disclosure requirements of this chapter, with specific emphasis on the status of the development of a means or method described in paragraph (1) of subdivision (a) of Section 84602.

(2) Whether and to what extent any means or method has been deployed that allows filers to submit required filings free of charge, with an emphasis on the types of filers who are not yet able to complete all required online or electronic filings free of charge, what aspects of the filings are missing that prevent those filers from being able to complete all required online or electronic filings free of charge, the costs to those filers, and, if applicable, why a means or method has not yet been deployed and when one is likely to be deployed.

(3) What resources are necessary to complete efforts to allow filers to submit required filings free of charge, when completion is expected, and an explanation of why the original full allocation of requested funding did not provide the statutorily required free filing system.

(c) Additional reports to the Legislature pursuant to subdivision (b) shall be due on July 1, and December 1, of each year, until a means or method has been deployed that allows all filers who are required to file reports online or electronically to file those reports free of charge.

SEC. 20. Section 1348.9 of the Health and Safety Code is amended to read:

1348.9. (a) On or before July 1, 2003, the director shall adopt regulations to establish the Consumer Participation Program, which shall allow for the director to award reasonable advocacy and witness fees to any person or organization that demonstrates that the person or

organization represents the interests of consumers and has made a substantial contribution on behalf of consumers to the adoption of any regulation or to an order or decision made by the director if the order or decision has the potential to impact a significant number of enrollees.

(b) The regulations adopted by the director shall include specifications for eligibility of participation, rates of compensation, and procedures for seeking compensation. The regulations shall require that the person or organization demonstrate a record of advocacy on behalf of health care consumers in administrative or legislative proceedings in order to determine whether the person or organization represents the interests of consumers.

(c) This section shall apply to all proceedings of the department, but shall not apply to resolution of individual grievances, complaints, or cases.

(d) Fees awarded pursuant to this section may not exceed three hundred fifty thousand dollars ($350,000) each fiscal year.

(e) The fees awarded pursuant to this section shall be considered costs and expenses pursuant to Section 1356 and shall be paid from the assessment made under that section. Notwithstanding the provisions of this subdivision, the amount of the assessment shall not be increased to pay the fees awarded under this section.

(f) The department shall report to the appropriate policy and fiscal committees of the Legislature before March 1, 2004, and annually thereafter, the following information:

(1) The amount of reasonable advocacy and witness fees awarded each fiscal year.

(2) The individuals or organization to whom advocacy and witness fees were awarded pursuant to this section.

(3) The orders, decisions, and regulations pursuant to which the advocacy and witness fees were awarded.

(g) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 21. Section 53533 of the Health and Safety Code is amended to read:

53533. (a) Money deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

(1) Nine hundred ten million dollars ($910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to 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 (3) of subdivision (a) of Section 50898.1.

(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 subparagraph, the department shall receive fifteen million dollars ($15,000,000) for these purposes subject to the following conditions and requirements:

(i) The amount available to the department as a recipient shall be limited to ten million seven hundred thousand dollars ($10,700,000) prior to September 1, 2006. The department may receive up to four million three hundred thousand dollars ($4,300,000) in additional funds after that date and prior to July 1, 2007, to the extent that unencumbered funds are available.

(ii) The department shall make at least eight million one hundred fifty-nine thousand dollars ($8,159,000) available for flexible loans and grants for projects that serve migratory agricultural workers pursuant to subdivision (a) of Section 50517.10. These funds shall be available for encumbrance until September 1, 2006.

(iii) Any funds allocated by this subparagraph remaining unencumbered on July 1, 2007, shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(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) Except as provided in subparagraph (A) 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. 22. Section 1684 of the Labor Code is amended to read:

1684. (a) The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor

Commissioner renew that license, until all of the following conditions are satisfied:

(1) The person has executed a written application in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(A) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(C) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(2) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) The person has deposited with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

(A) For payrolls up to five hundred thousand dollars ($500,000), a twenty-five thousand dollar ($25,000) bond.

(B) For payrolls of five hundred thousand dollars ($500,000) to two million dollars ($2,000,000), a fifty thousand dollar ($50,000) bond.

(C) For payrolls greater than two million dollars ($2,000,000), a seventy-five thousand dollar ($75,000) bond.

Where the contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, he or she shall be required to deposit an additional bond within 60 days. The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure to do so, or by any violation of this chapter, or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code.

(4) The person has paid to the Labor Commissioner a license fee of five hundred dollars ($500) plus a filing fee of ten dollars ($10).

However, where a timely application for renewal is filed, the ten dollar ($10) filing fee is not required. The Labor Commissioner shall deposit one hundred fifty dollars ($150) of each licensee's annual license fee into the Farmworker Remedial Account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond, or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor. In making these determinations, the Labor Commissioner shall disburse funds from the Farmworker Remedial Account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall also include interest on wages and any damages arising from the violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code. The Labor Commissioner may disburse funds from the Farmworker Remedial Account to farm labor contractors, for payment of farmworkers, where a contractor is unable to pay farmworkers due to the failure of a grower or packer to pay the contractor. Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the Farmworker Remedial Account.

(5) The person has taken a written examination that demonstrates an essential degree of knowledge of the current laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public. To successfully complete the examinations, the person must correctly answer at least 85 percent of the questions posed. The examination period shall not exceed four hours. The examination may only be taken a maximum of three times in a calendar year. The examinations shall include a demonstration of knowledge of the current laws and regulations regarding wages, hours, and working conditions, penalties, employee housing and transportation, collective bargaining, field sanitation, and safe work practices related to pesticide use, including all of the following subjects:

(A) Field reentry regulations.

(B) Worker pesticide safety training.

(C) Employer responsibility for safe working conditions.

(D) Symptoms and appropriate treatment of pesticide poisoning.

(6) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), when registration is required pursuant to federal law.

(b) (1) The Labor Commissioner shall consult with the Director of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Housing and Community Development, the Employment Development Department, the Department of Food and Agriculture, the Department of Motor Vehicles, and the Division of Occupational Safety and Health in preparing the examination required by paragraph (5) of subdivision (a) and the appropriate educational materials pertaining to the matters included in the examination, and may charge a fee of not more than one hundred dollars ($100) to cover the cost of administration of the examination.

(2) In addition, the person must enroll and participate in at least eight hours of relevant, educational classes each year. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in paragraph (1) and county agricultural commissioners.

(c) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in paragraph (5) of subdivision (a) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code, Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.

(4) Has complied with all other requirements of this section.

SEC. 23. Section 1698 of the Labor Code is amended to read:

1698. All fines collected for violations of this chapter shall be paid into the Farmworker Remedial Account and shall be available, upon appropriation, for purposes of this chapter. Of the moneys collected for licenses issued pursuant to this chapter, one hundred fifty dollars ($150) of each annual license fee shall be deposited in the Farmworker Remedial Account pursuant to paragraph (4) of subdivision (a) of Section 1684, three hundred fifty dollars ($350) of each annual license fee shall be expended by the Labor Commissioner to fund the Farm Labor Contractor Enforcement Unit and the Farm Labor Contractor License Verification

Unit, both within the department, and the remaining money shall be paid into the State Treasury and credited to the General Fund.

SEC. 24. Section 4603.2 of the Labor Code is amended to read:

4603.2. (a) Upon selecting a physician pursuant to Section 4600, the employee or physician shall forthwith notify the employer of the name and address of the physician. The physician shall submit a report to the employer within five working days from the date of the initial examination and shall submit periodic reports at intervals that may be prescribed by rules and regulations adopted by the administrative director.

(b) (1) Except as provided in subdivision (d) of Section 4603.4, or under contracts authorized under Section 5307.11, payment for medical treatment provided or authorized by the treating physician selected by the employee or designated by the employer shall be made at reasonable maximum amounts in the official medical fee schedule, pursuant to Section 5307.1, in effect on the date of service. Payments shall be made by the employer within 45 working days after receipt of each separate, itemization of medical services provided, together with any required reports and any written authorization for services that may have been received by the physician. If the itemization or a portion thereof is contested, denied, or considered incomplete, the physician shall be notified, in writing, that the itemization is contested, denied, or considered incomplete, within 30 working days after receipt of the itemization by the employer. A notice that an itemization is incomplete shall state all additional information required to make a decision. Any properly documented list of services provided not paid at the rates then in effect under Section 5307.1 within the 45-working-day period shall be increased by 15 percent, together with interest at the same rate as judgments in civil actions retroactive to the date of receipt of the itemization, unless the employer does both of the following:

(A) Pays the provider at the rates in effect within the 45-working-day period.

(B) Advises, in the manner prescribed by the administrative director, the physician, or another provider of the items being contested, the reasons for contesting these items, and the remedies available to the physician or the other provider if he or she disagrees. In the case of an itemization that includes services provided by a hospital, outpatient surgery center, or independent diagnostic facility, advice that a request has been made for an audit of the itemization shall satisfy the requirements of this paragraph.

An employer's liability to a physician or another provider under this section for delayed payments shall not affect its liability to an employee under Section 5814 or any other provision of this division.

(2) Notwithstanding paragraph (1), if the employer is a governmental entity, payment for medical treatment provided or authorized by the treating physician selected by the employee or designated by the employer shall be made within 60 working days after receipt of each separate itemization, together with any required reports and any written authorization for services that may have been received by the physician.

(c) Any interest or increase in compensation paid by an insurer pursuant to this section shall be treated in the same manner as an increase in compensation under subdivision (d) of Section 4650 for the purposes of any classification of risks and premium rates, and any system of merit rating approved or issued pursuant to Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code.

(d) (1) Whenever an employer or insurer employs an individual or contracts with an entity to conduct a review of an itemization submitted by a physician or medical provider, the employer or insurer shall make available to that individual or entity all documentation submitted together with that itemization by the physician or medical provider. When an individual or entity conducting a itemization review determines that additional information or documentation is necessary to review the itemization, the individual or entity shall contact the claims administrator or insurer to obtain the necessary information or documentation that was submitted by the physician or medical provider pursuant to subdivision (b).

(2) An individual or entity reviewing an itemization of service submitted by a physician or medical provider shall not alter the procedure codes listed or recommend reduction of the amount of the payment unless the documentation submitted by the physician or medical provider with the itemization of service has been reviewed by that individual or entity. If the reviewer does not recommend payment for services as itemized by the physician or medical provider, the explanation of review shall provide the physician or medical provider with a specific explanation as to why the reviewer altered the procedure code or changed other parts of the itemization and the specific deficiency in the itemization or documentation that caused the reviewer to conclude that the altered procedure code or amount recommended for payment more accurately represents the service performed.

(3) The appeals board shall have jurisdiction over disputes arising out of this subdivision pursuant to Section 5304.

SEC. 25. Section 4903.05 of the Labor Code is repealed.

SEC. 26. Section 4903.6 is added to the Labor Code, to read:

4903.6. (a) Except as necessary to meet the requirements of Section 4903.5, no lien claim or application for adjudication shall be filed under

subdivision (b) of Section 4903 until the expiration of one of the following:

(1) Sixty days after the date of acceptance or rejection of liability for the claim, or expiration of the time provided for investigation of liability pursuant to subdivision (b) of Section 5402, whichever date is earlier.

(2) The time provided for payment of medical treatment bills pursuant to Section 4603.2.

(3) The time provided for payment of medical-legal expenses pursuant to Section 4622.

(b) No declaration of readiness to proceed shall be filed for a lien under subdivision (b) of Section 4903 until the underlying case has been resolved or where the applicant chooses not to proceed with his or her case.

(c) The appeals board shall adopt reasonable regulations to ensure compliance with this section, and shall take any further steps as may be necessary to enforce the regulations, including, but not limited to, impositions of sanctions pursuant to Section 5813.

(d) The prohibitions of this section shall not apply to lien claims, applications for adjudication, or declarations of readiness to proceed filed by or on behalf of the employee, or to the filings by or on behalf of the employer.

SEC. 27. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of two hundred dollars ($200) upon the first conviction or a fine of three hundred dollars ($300) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (a) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) (1) Out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (2) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (2), and 50 percent shall be

transferred to the DNA Identification Fund, as established by Section 76104.6 of the Government Code.

(2) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(c) Notwithstanding any other provision of this section, the Department of Corrections and Rehabilitation may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (a) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections and Rehabilitation. All moneys collected by the Department of Corrections and Rehabilitation under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

SEC. 28. Section 295 of the Penal Code is amended to read:

295. (a) This chapter shall be known and may be cited as the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended.

(b) The people of the State of California set forth all of the following:

(1) Deoxyribonucleic acid (DNA) and forensic identification analysis is a useful law enforcement tool for identifying and prosecuting criminal offenders and exonerating the innocent.

(2) It is the intent of the people of the State of California, in order to further the purposes of this chapter, to require DNA and forensic identification data bank samples from all persons, including juveniles, for the felony and misdemeanor offenses described in subdivision (a) of Section 296.

(3) It is necessary to enact this act defining and governing the state's DNA and forensic identification database and data bank in order to clarify existing law and to enable the state's DNA and Forensic Identification Database and Data Bank Program to become a more effective law enforcement tool.

(c) The purpose of the DNA and Forensic Identification Database and Data Bank Program is to assist federal, state, and local criminal justice and law enforcement agencies within and outside California in the expeditious and accurate detection and prosecution of individuals responsible for sex offenses and other crimes, the exclusion of suspects

who are being investigated for these crimes, and the identification of missing and unidentified persons, particularly abducted children.

(d) Like the collection of fingerprints, the collection of DNA samples pursuant to this chapter is an administrative requirement to assist in the accurate identification of criminal offenders.

(e) Unless otherwise requested by the Department of Justice, collection of biological samples for DNA analysis from qualifying persons under this chapter is limited to collection of inner cheek cells of the mouth (buccal swab samples).

(f) The Department of Justice DNA Laboratory may obtain through federal, state, or local law enforcement agencies blood specimens from qualifying persons as defined in subdivision (a) of Section 296, and according to procedures set forth in Section 298, when it is determined in the discretion of the Department of Justice that such specimens are necessary in a particular case or would aid the department in obtaining an accurate forensic DNA profile for identification purposes.

(g) The Department of Justice, through its DNA Laboratory, shall be responsible for the management and administration of the state's DNA and Forensic Identification Database and Data Bank Program and for liaison with the Federal Bureau of Investigation (FBI) regarding the state's participation in a national or international DNA database and data bank program such as the FBI's Combined DNA Index System (CODIS) that allows the storage and exchange of DNA records submitted by state and local forensic DNA laboratories nationwide.

(h) The Department of Justice shall be responsible for implementing this chapter.

(1) The Department of Justice DNA Laboratory, and the Department of Corrections and Rehabilitation may adopt policies and enact regulations for the implementation of this chapter, as necessary, to give effect to the intent and purpose of this chapter, and to ensure that data bank blood specimens, buccal swab samples, and thumb and palm print impressions as required by this chapter are collected from qualifying persons in a timely manner, as soon as possible after arrest, conviction, or a plea or finding of guilty, no contest, or not guilty by reason of insanity, or upon any disposition rendered in the case of a juvenile who is adjudicated under Section 602 of the Welfare and Institutions Code for commission of any of this chapter's enumerated qualifying offenses, including attempts, or when it is determined that a qualifying person has not given the required specimens, samples or print impressions. Before adopting any policy or regulation implementing this chapter, the Department of Corrections and Rehabilitation shall seek advice from and consult with the Department of Justice DNA Laboratory Director.

(2) Given the specificity of this chapter, and except as provided in subdivision (c) of Section 298.1, any administrative bulletins, notices, regulations, policies, procedures, or guidelines adopted by the Department of Justice and its DNA Laboratory, the Department of Corrections and Rehabilitation for the purpose of the implementing this chapter are exempt from the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The Department of Corrections and Rehabilitation shall submit copies of any of their policies and regulations with respect to this chapter to the Department of Justice DNA Laboratory Director, and quarterly shall submit to the director written reports updating the director as to the status of their compliance with this chapter.

(4) On or before April 1 in the year following adoption of the act that added this paragraph, and quarterly thereafter, the Department of Justice DNA Laboratory shall submit a quarterly report to be published electronically on a Department of Justice Web site and made available for public review. The quarterly report shall state the total number of samples received, the number of samples received from the Department of Corrections and Rehabilitation, the number of samples fully analyzed for inclusion in the CODIS database, and the number of profiles uploaded into the CODIS database for the reporting period. Each quarterly report shall state the total, annual, and quarterly number of qualifying profiles in the Department of Justice DNA Laboratory data bank both from persons and case evidence, and the number of hits and investigations aided, as reported to the National DNA Index System. The quarterly report shall also confirm the laboratory's accreditation status and participation in CODIS and shall include an accounting of the funds collected, expended, and disbursed pursuant to subdivision (k).

(5) On or before April 1 in the year following adoption of the act that added this paragraph, and quarterly thereafter, the Department of Corrections and Rehabilitation shall submit a quarterly report to be published electronically on a Department of Corrections and Rehabilitation Web site and made available for public review. The quarterly report shall state the total number of inmates housed in state correctional facilities, including a breakdown of those housed in state prisons, camps, community correctional facilities, and other facilities such as prisoner mother facilities. Each quarterly report shall also state the total, annual, and quarterly number of inmates who have yet to provide specimens, samples and print impressions pursuant to this chapter and the number of specimens, samples and print impressions that have

yet to be forwarded to the Department of Justice DNA Laboratory within 30 days of collection.

(i) (1) When the specimens, samples, and print impressions required by this chapter are collected at a county jail or other county facility, including a private community correctional facility, the county sheriff or chief administrative officer of the county jail or other facility shall be responsible for ensuring all of the following:

(A) The requisite specimens, samples, and print impressions are collected from qualifying persons immediately following arrest, conviction, or adjudication, or during the booking or intake or reception center process at that facility, or reasonably promptly thereafter.

(B) The requisite specimens, samples, and print impressions are collected as soon as administratively practicable after a qualifying person reports to the facility for the purpose of providing specimens, samples, and print impressions.

(C) The specimens, samples, and print impressions collected pursuant to this chapter are forwarded immediately to the Department of Justice, and in compliance with department policies.

(2) The specimens, samples, and print impressions required by this chapter shall be collected by a person using a collection kit approved by the Department of Justice and in accordance with the requirements and procedures set forth in subdivision (b) of Section 298.

(3) The counties shall be reimbursed for the costs of obtaining specimens, samples, and print impressions subject to the conditions and limitations set forth by the Department of Justice policies governing reimbursement for collecting specimens, samples, and print impressions pursuant to Section 76104.6 of the Government Code.

(j) The trial court may order that a portion of the costs assessed pursuant to Section 1203.1c, 1203.1e, or 1203.1m include a reasonable portion of the cost of obtaining specimens, samples, and print impressions in furtherance of this chapter and the funds collected pursuant to this subdivision shall be deposited in the DNA Identification Fund as created by Section 76104.6 of the Government Code.

(k) The Department of Justice DNA Laboratory shall be known as the Jan Bashinski DNA Laboratory.

SEC. 29. Section 42100 of the Public Resources Code is amended to read:

42100. For purposes of this chapter, the following definitions apply:

(a) "Agency" means the Business, Transportation and Housing Agency.

(b) "Air board" means the State Air Resources Board.

(c) "Applicant" means a small business that is a metal plating facility that produces hazardous waste and applies for financial assistance pursuant to this chapter to reduce the generation of hazardous waste.

(d) "Chrome plating" has the same meaning as "decorative chromium electroplating" and "chromic acid anodizing" as defined in the regulations specifying a hexavalent chromium toxic control measure for chrome plating adopted by the air board and contained in Section 93102 of Title 17 of the California Code of Regulations.

(e) "Department" means the Department of Toxic Substances Control.

(f) "Emission reduction" has the same meaning as "airborne toxic risk reduction measure," as defined in subdivisions (a) and (b) of Section 44390 of the Health and Safety Code.

(g) "Financial company" is defined pursuant to Section 14010 of the Corporations Code.

(h) "Financial Development Corporation (FDC)" means a corporation formed under the California Small Business Financial Development Corporations Law (Ch. 1 (commencing with Sec. 14000) Pt. 5, Div. 3, Corp. C.).

(i) "Green business program" means a program coordinated by a local, state, or federal agency for the purposes of assisting and recognizing businesses that are in compliance with all environmental laws and regulations, and taking additional steps to conserve natural resources and prevent pollution.

(j) "Metal plating facility" means an establishment primarily engaged in all types of electroplating, plating, anodizing, coloring, and finishing of metals and formed products for the trade. Metal plating facility includes a chrome plating facility.

(k) "Model Shop Program" means the voluntary pollution prevention program developed by the Department of Toxic Substances Control with assistance from the Los Angeles City Bureau of Sanitation, Sanitation Districts of Los Angeles County, and the Metal Finishing Association of Southern California, to assist the metal plating industry in identifying possible sources of pollution and developing alternative business practices in order to run cleaner, safer shops.

(*l*) "National Metal Finishing Strategic Goal Program" means the voluntary program established through a partnership between the United States Environmental Protection Agency and the metal finishing industry that encourages companies to move beyond environmental compliance by offering participants incentives, resources, and means for removing regulatory and policy barriers as they work to achieve specific environmental goals.

(m) "Pollution prevention" means the same as source reduction, as defined by subdivision (e) of Section 25244.14 of the Health and Safety Code.

(n) "Sensitive receptor" means a school, general acute care hospital, long-term health care facility, and child day care facility. For purposes of this subdivision, "general acute care hospital" has the meaning provided by subdivision (a) of Section 1250 of the Health and Safety Code, "long-term health care facility" has the meaning provided by subdivision (a) of Section 1418 of the Health and Safety Code, and "child day care facility" has the meaning provided by Section 1596.750 of the Health and Safety Code.

(o) "Water board" means the State Water Resources Control Board.

SEC. 30. Section 42101 of the Public Resources Code is amended to read:

42101. (a) The agency shall work with the department, the air board, and the water board to develop a loan guarantee program, through its existing relationship with the Financial Development Corporations (FDCs) located throughout the state, to assist metal plating facilities in purchasing high performance environmental control equipment or technologies that will enable that facility to meet new or exceed existing regulatory requirements, or both, and implement additional pollution prevention opportunities.

(b) In establishing the loan guarantee program pursuant to subdivision (a), the agency shall make every effort to integrate and leverage existing financing mechanisms for this new program, including the Treasurer's California Pollution Control Financing Authority California Capital Access Program (CalCAP), and the California Infrastructure and Economic Development Bank's (I-Bank) Revenue Bond program.

SEC. 31. Section 42101.1 of the Public Resources Code is amended to read:

42101.1. The agency shall only make loan guarantees available to applicants that meet all of the following eligibility requirements:

(a) The applicant is a small business, as defined in subdivision (d) of Section 14837 of the Government Code.

(b) The applicant owns or operates a metal plating facility.

(c) The applicant satisfies one of the following conditions:

(1) Has completed or is currently participating in the Model Shop Program for metal platers.

(2) Has completed or is currently participating in the National Metal Finishing Strategic Goals Program.

(3) Is participating in a green business program whose goals are consistent with the pollution prevention and natural resource conservation elements of the Model Shop Program.

(4) Is certified as a green business whose goals are consistent with the pollution prevention and natural resource conservation elements of the Model Shop Program.

(d) Funds are not obtainable, upon reasonable terms, from financial companies, without a loan guarantee.

(e) The applicant demonstrates that the facility meets new or exceeds existing regulatory requirements, or both, has no pending local, state, or federal enforcement or correction actions, and is participating in or has completed additional pollution prevention activities.

SEC. 32. Section 42104 of the Public Resources Code is amended to read:

42104. The department shall establish the Model Shop Program in northern California by replicating the existing Metal Plating Model Shop Pilot Program, which is currently available only to southern California metal plating facilities. In selecting participants for inclusion in the Model Shop Program, the department shall specifically consider proximity of the facility to sensitive receptors and residences and coordinate with existing enforcement activities.

SEC. 33. Section 325.6 is added to the Unemployment Insurance Code, to read:

325.6. (a) It is the intent of the Legislature that state supported Veterans Employment Training services meet the same performance standards as those required by the federal Workforce Investment Act for services provided to veterans.

(b) Following any fiscal year in which state funds support the Veterans Employment Training services program, the Employment Development Department shall provide an annual report to the Legislature, on or before November 1, regarding the following performance measures:

(1) The number of veterans receiving individualized, case managed services.

(2) The number of veterans who receive individualized, case managed services entering employment.

(3) The retention rate for veterans who enter employment.

(4) The average earnings for veterans entering employment.

SEC. 34. Section 5066 of the Vehicle Code is amended to read:

5066. (a) The department, in conjunction with the California Highway Patrol, shall design and make available for issuance pursuant to this article the California memorial license plate. Notwithstanding Section 5060, the California memorial license plate may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. A person described in Section 5101, upon payment of the additional fees set forth in subdivision (b), may apply for and be issued a set of California memorial license plates.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars ($40).

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

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

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees required pursuant to Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).

(c) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:

(1) Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund.

(A) Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the Office of Emergency Services to be used solely for antiterrorism activities. The office shall not use more than 5 percent of the money appropriated to it for administrative purposes.

(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.

(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Money deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.

(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program. The department may utilize an amount of money, not to exceed fifty thousand dollars ($50,000) annually, derived from the issuance, renewal, transfer, and substitution of California memorial license plates for the continued promotion of the California memorial license plate program of this section.

(e) For the purposes of this section, “antiterrorism activities” means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire

protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

SEC. 35. Article 18.9 (commencing with Section 749.5) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 18.9. Juvenile Justice Community Reentry Challenge Grant Program

749.5. This article shall be known and may be cited as the Juvenile Justice Community Reentry Challenge Grant Program.

749.6. It is the intent of the Legislature to support the systematic and cultural transformation of the Division of Juvenile Justice into a rehabilitative model that improves youthful offender outcomes and reduces recidivism. As a key component of meeting these goals, it is further the intent of the Legislature to support the development of local infrastructure that provides comprehensive reentry services for juvenile parolees. These services shall be complementary to, and consistent with, the long-term objective of providing a continuum of state and local responses to juvenile delinquency that enhance public safety and improve offender outcomes.

749.7. (a) The Juvenile Justice Community Reentry Challenge Grant Program shall be administered by the Division of Juvenile Justice, in consultation with the Corrections Standards Authority, for the purpose of improving the performance and cost-effectiveness of postcustodial reentry supervision of juvenile parolees, reducing the recidivism rates of juvenile offenders, and piloting innovative reentry programs consistent with the division's focus on a rehabilitative treatment model.

(b) This program shall award grants on a competitive basis to applicants that demonstrate a collaborative and comprehensive approach to the successful community reintegration of juvenile parolees, through

the provision of wrap-around services that may include, but are not limited to, the following:

(1) Transitional or step-down housing, including, but not limited to, group homes subject to Section 18987.62.

(2) Occupational development and job placement.

(3) Outpatient mental health services.

(4) Substance abuse treatment services.

(5) Education.

(6) Life skills counseling.

(7) Restitution and community service.

(8) Case management.

(9) Intermediate sanctions for technical violations of conditions of parole.

(c) To be eligible for consideration, applicants shall submit a program plan that includes, but is not limited to, the following:

(1) The target population.

(2) The type of housing and wrap-around services provided.

(3) A parole and community reentry plan for each parolee.

(4) Potential sanctions for a parolee's failure to observe the conditions of the program.

(5) Coordination with local probation and other law enforcement agencies.

(6) Coordination with other service providers and community partners.

749.8. (a) The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, shall award grants that provide funding for three years on a competitive basis to counties and nonprofit organizations.

(b) A minimum of 75 percent of the grant award shall be for providing program services to individuals on parole from the Division of Juvenile Justice. The remainder of the grant award may additionally be used for providing program services to youthful offenders under the jurisdiction of the county or local juvenile court who are transitioning from out-of-home placements back into the community.

(c) The division shall award grants in a manner that maximizes the development of meaningful and innovative local programs to provide comprehensive reentry services for juvenile parolees.

(d) For any grant award, the division shall work with the juvenile court and the probation department of the county or counties in the grant service area to identify state and local case supervision responsibilities that are appropriate for the effective operation and management of the reentry programs supported by the grant. These responsibilities shall be incorporated into a case supervision plan for the grant that shall describe the role of local courts and probation departments in facilitating

individual reentry plans, in assigning or removing parolees from grant-funded programs, and in meeting evaluation criteria for the grant.

749.9. The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, the Chief Probation Officers of California, and experts in the field of California juvenile justice programs, shall establish minimum standards, funding schedules, and procedures for awarding grants, which shall take into consideration, but not be limited to, all of the following:

(a) The size of the eligible population.

(b) A demonstrated ability to administer the program.

(c) A demonstrated ability to develop and provide a collaborative approach to improving parolee success rates that includes the participation of nonprofit and community partners.

(d) A demonstrated ability to provide comprehensive services to support improved parolee outcomes, including housing, training, and treatment.

(e) A demonstrated ability to provide effective oversight and management of youthful offenders or young adults who have been committed to a detention facility, and parolees that require reentry supervision and control.

(f) A demonstrated history of maximizing federal, state, local, and private funding sources.

749.95. (a) Each grant recipient shall be required to establish and track outcome measures, including, but not limited to:

(1) Annual recidivism rates, including technical parole violations and new offenses.

(2) The number and percent of participants successfully completing parole.

(3) The number and percent of participants engaged in part-time or full-time employment, enrolled in higher education or vocational training, receiving drug and substance abuse treatment, or receiving mental health treatment.

(4) The number and percent of participants that obtain stable housing, including the type of housing.

(b) The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, the Chief Probation Officers of California, and experts in the field of California juvenile justice programs, shall create an evaluation design for the Juvenile Justice Community Reentry Challenge Grant Program that will assess the effectiveness of the program. The division shall develop an interim report to be submitted to the Legislature on or before March 1, 2009, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2011.

SEC. 36. By February 1, 2007, the Department of Veterans Affairs shall submit a report to the fiscal committees of both houses of the Legislature regarding possible strategies for increasing the number of California veterans receiving federal benefits. The department shall consult with county veterans' service officers, veterans' service organizations, the Department of Finance, the Legislative Analyst's Office, and legislative staff to develop the report required by this section. The department shall consider the impact of demographics, county of residence, and service records on the attainment of these benefits. The report shall also include an analysis of best practices from other states.

SEC. 37. (a) It is the intent of the Legislature to provide a means to correct errors made in calculating the contributions by the state to the Teachers' Retirement Fund and the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund. The actuary of the Teachers' Retirement Board has identified errors during fiscal years 2002–03, 2003–04, 2004–05, and 2005–06.

(b) Notwithstanding Sections 22954 and 22955 of the Education Code and any other provisions of law to the contrary, the following accounting adjustments shall be made:

(1) Notwithstanding the creditable compensation calculation of October 1, 2005, by the Teachers' Retirement Board for the 2006–07 fiscal year, the continuous appropriation described in subdivision (b) of Section 22954 of the Education Code for the 2006–07 fiscal year shall be based on the creditable compensation calculation of March 2006 by the Teachers' Retirement Board. The appropriation based on that March 2006 calculation is less than the appropriation based on the October 1, 2005, calculation, in the amount of one million seven hundred six thousand six hundred eighteen dollars ($1,706,618).

(2) For fiscal year 2004–05, the amount appropriated as described in subdivision (b) of Section 22954 of the Education Code exceeds the amount required to be paid by the state in the amount of one million ninety-two thousand eight hundred sixty-five dollars ($1,092,865). The amount described in this paragraph shall be applied as a credit to the state for the appropriation described in paragraph (1) of this subdivision.

(3) Notwithstanding the creditable compensation calculation of October 1, 2005, by the Teachers' Retirement Board for the 2006–07 fiscal year, the continuous appropriation described in subdivision (a) of Section 22955 of the Education Code for the 2006–07 fiscal year shall be based on the creditable compensation calculation of March 2006 by the Teachers' Retirement Board. The appropriation based on that March 2006 calculation is less than the appropriation based on the October 1, 2005, calculation, in the amount of one million three hundred seventy-seven thousand eight hundred seventy dollars ($1,377,870).

(4) For fiscal year 2004–05, the amount appropriated as described in subdivision (a) of Section 22955 of the Education Code exceeds the amount required to be paid by the state in the amount of eight hundred eighty-one thousand seven hundred twenty-three dollars ($881,723). The amount described in this paragraph shall be applied as a credit to the state for the appropriation described in paragraph (3) of this subdivision.

(5) For fiscal years 2002–03, 2003–04, 2004–05, and 2005–06, the amount appropriated as described in subdivision (b) of Section 22955 of the Education Code exceeds the amount required to be paid by the state in the amount of one hundred twenty-two million six hundred thousand two hundred thirteen dollars ($122,600,213). The amount described in this paragraph shall be applied as a credit to the state for the appropriation described in subdivision (b) of Section 22955 of the Education Code for the 2006–07 fiscal year.

SEC. 38. The accounting adjustments described in Section 37 of this act shall require all of the following:

(a) On July 1, 2006, for the 2006–07 fiscal year and in addition to the amount that would otherwise be appropriated for the Supplemental Benefit Maintenance Account as described in subdivision (b) of Section 22954 of the Education Code, there shall be an appropriation from the General Fund to the Controller for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in the amount of six hundred thirteen thousand seven hundred fifty-three dollars ($613,753).

(b) On July 1, 2006, for the 2006–07 fiscal year and as described in this act, the appropriation described in subdivisions (a) and (b) of Section 22955 of the Education Code from the General Fund to the Controller for transfer to the Teachers' Retirement Fund shall be reduced by one hundred twenty-two million one hundred four thousand sixty-six dollars ($122,104,066).

SEC. 39. The Legislature finds and declares that the addition of Section 84602.1 to the Government Code by Section 19 of this act furthers the purpose of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 40. (a) In enacting Section 21 of this act, the Legislature finds and declares all of the following:

(1) The Housing and Emergency Shelter Trust Fund Act of 2002 provided fifteen million dollars ($15,000,000) through the voter approval of Proposition 46 at the November 5, 2002, statewide general election for the purpose of funding student housing through the Multifamily Housing Program.

(2) Pursuant to that act, any funds not used for student housing within 24 months of availability are to be awarded pursuant to the Downtown Rebound Program for loans to project sponsors for the adaptive reuse of vacant or underused commercial or industrial structures into rental housing located within an elementary school attendance area where 50 percent or more of the pupils are eligible for free meals under the federal school lunch program to be occupied by households having an income not exceeding 150 percent of area median income, pursuant to paragraph (1) of subdivision (c) of Section 50898.2.

(3) As of November 7, 2005, student housing funds remained after 24 months of availability. However, demand for funds under the Adaptive Reuse Program has proven to be lower than originally anticipated. Therefore, there is a likelihood that any unused student funds made available to the Adaptive Reuse Program may remain unused for an extended period of time.

(4) In approving the Housing and Emergency Shelter Trust Fund Act of 2002, the voters expressly reserved to the Legislature the authority to make program revisions where necessary for the effectiveness or efficiency in meeting the purposes of the various programs.

(b) Therefore, the Legislature determines that a more efficient and effective use of unused student housing funds would be to make these funds available to transit-oriented Downtown Rebound Program rental housing projects as described in paragraph (3) of subdivision (a) of Section 50898.1 for which there is a higher demand for funds.

SEC. 41. 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 changes to implement the Budget Act of 2006 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 70

An act to amend and repeal Sections 30142, 30168, and 30182 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 30142 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 867 of the Statutes of 2003, is amended to read:

30142. (a) The board shall fix the amount of the security required of any distributor and may increase or reduce the amount at any time. A minimum security in the amount of one thousand dollars ($1,000) shall be furnished by every distributor that is required to be licensed.

(b) If a distributor desires to defer payments for stamps or meter register settings, as provided in Article 2 (commencing with Section 30166) of Chapter 3.5, the board shall require a security as follows:

(1) If a distributor elects, under Section 30168, to make payments on a monthly basis, the board shall require a security equal to not less than 70 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

(2) If a distributor elects, under Section 30168, to make payments on a twice-monthly basis, the board shall require a security equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

(c) The security required by the board pursuant to subdivision (b) may be in the form of any of the following, in the amount required by paragraph (1) or (2) of subdivision (b):

(1) Cash, or a cash equivalent.

(2) A surety bond.

SEC. 2. Section 30142 of the Revenue and Taxation Code, as added by Section 2 of Chapter 867 of the Statutes of 2003, is repealed.

SEC. 3. Section 30168 of the Revenue and Taxation Code, as amended by Section 3 of Chapter 867 of the Statutes of 2003, is amended to read:

30168. (a) Amounts owing for stamps and meter register settings purchased on the deferred-payment basis in any calendar month shall be due and payable on a monthly basis, in the manner elected pursuant to subdivision (b), during the month following the calendar month in which the stamps and meter register settings were purchased. Payment shall be made by a remittance payable to the board.

(b) A distributor shall elect to make the payment required by subdivision (a) on either a monthly or a twice-monthly basis. An election made pursuant to this subdivision shall remain in effect for at least one year from the date the election is made. If the board finds that good cause exists for a distributor's inability to maintain the election for the full

year, the board shall authorize the distributor to make a new election, as otherwise authorized by this subdivision, prior to the expiration of the one-year period following the prior election.

(1) If a distributor elects to make the payment required by subdivision (a) on a monthly basis, the distributor shall remit the payment on or before the 25th day of the month following the month in which the stamps and meter register settings were purchased.

(2) If a distributor elects to make the payment required by subdivision (a) on a twice-monthly basis, the distributor shall make two remittances during the month following the month in which the stamps and meter register settings were purchased. The first monthly remittance shall be made on or before the fifth day of the month and shall be equal to either one-half of the total amount of those purchases of stamps and meter register settings that were made during the preceding month or the total amount of those purchases of stamps and meter register settings that were made between the first day and the 15th day of the preceding month, whichever is greater. The second monthly remittance shall be made on or before the 25th day of the month for the remainder of those purchases of stamps and meter register settings that were made in the preceding month.

SEC. 4. Section 30168 of the Revenue and Taxation Code, as added by Section 4 of Chapter 867 of the Statutes of 2003, is repealed.

SEC. 5. Section 30182 of the Revenue and Taxation Code, as amended by Section 7 of Chapter 867 of the Statutes of 2003, is amended to read:

30182. (a) Except as provided in subdivision (b), every distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.

(b) Every distributor that elects, pursuant to Section 30168, to make deferred payments on a twice-monthly basis shall file a report in the form as prescribed by the board, that may include, but not be limited to, electronic media, with respect to distributions of cigarettes and purchases of stamps and meter register units during the month following the month in which the distribution occurred and the stamps and meter register settings were purchased, and any other information as the board may require to carry out this part. The monthly report shall be filed on or before the fifth day of the month with respect to those distributions of cigarettes and purchases of stamps and meter register settings that were made during the preceding month.

(c) Reports shall be authenticated in a form, or pursuant to, methods as may be prescribed by the board.

SEC. 6. Section 30182 of the Revenue and Taxation Code, as added by Section 8 of Chapter 867 of the Statutes of 2003, is repealed.

CHAPTER 71

An act to amend Section 12131 of the Penal Code, relating to firearms.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 12131 of the Penal Code, as amended by Section 4 of Chapter 912 of the Statutes of 2002, is amended to read:

12131. (a) On and after January 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold in this state pursuant to this title. The roster shall list, for each firearm, the manufacturer, model number, and model name.

(b) (1) The department may charge every person in this state who is licensed as a manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster pursuant to subdivision (a) and the costs of research and development, report analysis, firearms storage, and other program infrastructure costs necessary to implement this chapter.

(2) Any pistol, revolver, or other firearm capable of being concealed upon the person that is manufactured by a manufacturer who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, and who fails to pay any fee required pursuant to paragraph (1), may be excluded from the roster.

(3) If a purchaser has initiated a transfer of a handgun that is listed on the roster as not unsafe, and prior to the completion of the transfer, the handgun is removed from the roster of not unsafe handguns because of failure to pay the fee required to keep that handgun listed on the roster, the handgun shall be deliverable to the purchaser if the purchaser is not otherwise prohibited from purchasing or possessing the handgun. However, if a purchaser has initiated a transfer of a handgun that is listed on the roster as not unsafe, and prior to the completion of the transfer, the handgun is removed from the roster pursuant to subdivision (f), the handgun shall not be deliverable to the purchaser.

(c) The Attorney General may annually retest up to 5 percent of the handgun models that are listed on the roster described in subdivision (a).

(d) The retesting of a handgun model pursuant to subdivision (c) shall conform to the following:

(1) The Attorney General shall obtain from retail or wholesale sources, or both, three samples of the handgun model to be retested.

(2) The Attorney General shall select the certified laboratory to be used for the retesting.

(3) The ammunition used for the retesting shall be of a type recommended by the manufacturer in the user manual for the handgun. If the user manual for the handgun model makes no ammunition recommendation, the Attorney General shall select the ammunition to be used for the retesting. The ammunition shall be of the proper caliber for the handgun, commercially available, and in new condition.

(e) The retest shall be conducted in the same manner as the testing prescribed in Sections 12127 and 12128.

(f) If the handgun model fails retesting, the Attorney General shall remove the handgun model from the roster maintained pursuant to subdivision (a).

(g) A handgun model removed from the roster pursuant to subdivision (f) may be reinstated on the roster if all of the following are met:

(1) The manufacturer petitions the Attorney General for reinstatement of the handgun model.

(2) The manufacturer pays the Department of Justice for all of the costs related to the reinstatement testing of the handgun model, including the purchase price of the handguns, prior to reinstatement testing.

(3) The reinstatement testing of the handguns shall be in accordance with subdivisions (d) and (e).

(4) The three handgun samples shall be tested only once for reinstatement. If the sample fails it may not be retested.

(5) If the handgun model successfully passes testing for reinstatement, and if the manufacturer of the handgun is otherwise in compliance with

this chapter, the Attorney General shall reinstate the handgun model on the roster maintained pursuant to subdivision (a).

(6) The manufacturer shall provide the Attorney General with the complete testing history for the handgun model.

(7) Notwithstanding subdivision (c), the Attorney General may, at any time, further retest any handgun model that has been reinstated to the roster.

CHAPTER 72

An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

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

(a) The waters of this state are of limited supply and are subject to ever increasing demands.

(b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future use.

(c) It is the policy of the state to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.

(d) Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development.

(e) Landscape design, installation, and maintenance can and should be water efficient.

(f) Demonstration gardens that show the benefits of using water efficient landscaping should be promoted and any accommodations that can be made to help these demonstration gardens be economically sustainable should be supported.

SEC. 2. Section 25608 of the Business and Professions Code is amended to read:

25608. (a) Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to

acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds thereof, if any of the following applies:

(1) The alcoholic beverage possessed, consumed, or sold, pursuant to a license obtained under this division, is wine that is produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.

(2) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(3) The public schoolhouse is surplus school property and the grounds thereof are leased to a lessee which is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds thereof are located in an unincorporated area and are leased to a lessee which is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted thereon by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(4) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over six million people. As used in this subdivision, "events" mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

(5) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts facility built on property owned by a community college district and leased to a nonprofit organization which is a public benefit corporation formed under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. As used in this subdivision, "performing arts facility" means an auditorium with more than 300 permanent seats.

(6) The alcoholic beverage is wine for sacramental or other religious purposes and is used only during authorized religious services held on or before January 1, 1995.

(7) The alcoholic beverages are acquired, possessed, or used during an event at a community center owned by a community services district and the event is not held at a time when students are attending a public school-sponsored activity at the center.

(8) The alcoholic beverage is wine which is acquired, possessed, or used during an event sponsored by a community college district or an organization operated for the benefit of the community college district

where the college district maintains both an instructional program in viticulture on no less than five acres of land owned by the district and an instructional program in enology, which includes sales and marketing.

(9) The alcoholic beverage is acquired, possessed, or used at a professional minor league baseball game conducted at the stadium of a community college located in a county with a population of less than 250,000 inhabitants, and the baseball game is conducted pursuant to a contract between the community college district and a professional sports organization.

(10) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility. As used in this subdivision, "events" means fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event. "Events" does not include football games or other athletic contests sponsored by any college or public community college. This subdivision shall not apply to any public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled.

(11) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license obtained under this division, for an event during the weekend or at other times when pupils are not on the grounds of an overnight retreat facility owned and operated by a county office of education in a county of the 18th class.

(12) The grounds of the public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property that has been developed and is used for residential facilities or housing that is offered for rent, lease, or sale exclusively to faculty or staff of a public school or community college.

(13) The grounds of a public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property of a community college that is leased, licensed, or otherwise provided for use as a water conservation demonstration garden and community passive recreation resource by a joint powers agency comprised of public agencies, including the community college, and the event at which the alcoholic beverage is acquired, possessed, used, or consumed is conducted pursuant to a written policy adopted by the governing body of the joint powers agency and no public funds are used for the purchase or provision of the alcoholic beverage.

(b) Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Article 2 (commencing with Section 82537) of Chapter 8 of Part 49 of the Education Code.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which is applicable only to the water conservation demonstration gardens, is necessary in order to utilize water conservation demonstration gardens as a means to promote water conservation throughout the state, by having events at those conservation demonstration gardens that are open to the residents of the state.

CHAPTER 73

An act to add Section 41136.1 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 41136.1 is added to the Revenue and Taxation Code, to read:

41136.1. For each fiscal year, moneys in the State Emergency Telephone Number Account not appropriated for a purpose specified in Section 41136 shall be held in trust for future appropriation for upcoming, planned "911" emergency telephone number projects that have been approved by the Department of General Services, even if the projects have not yet commenced.

CHAPTER 74

An act to amend Section 1300 of the Business and Professions Code, to amend Sections 1214, 1214.1, 1214.5, 1337.6, 1338.5, 1403, 1575.9, 1729, 1730, 1736.2, 1743.17, 1743.19, 1750, 1794.06, 100922, 103526, 103526.5, 107080, 111615, 111625, 115065, 115080, 117995, 118210, and 124977 of, to add Sections 1266.5, 1266.7, 1266.9, 1266.10, 1266.12, 1760.5, 101315.2, and 117971 to, to repeal Sections 1337.7, 1403.1, 1729.1, 1736.3, and 100445 of, and to repeal and add Section 1266 of, the Health and Safety Code, to amend Sections 12693.70, 12696.05, and 12699 of, and to add Section 12695.03 to, the Insurance Code, to amend Section 830.3 of the Penal Code, and to amend Sections 4107, 4640.6, 4643, 4648.4, 4681.3, 4681.5, 4691.6, 4694, 4781.5, 4860, 5675.2, 14011.2, 14043.46, 14105.33, 14105.48, 14105.49, 14154, 14572, 14592, and 16809 of, and to add Sections 4690.5, 4691.8, 14007.2, 14067.3,

14068, and 14133.07 to, the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application, registration, and license fees under this chapter shall be as follows:

(a) The application fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, clinical microbiologist's, clinical laboratory toxicologist's, clinical cytogeneticist's, or clinical molecular biologist's license is thirty-eight dollars ($38). This fee shall be sixty-three dollars ($63) commencing on July 1, 1983.

(b) The annual renewal fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, clinical microbiologist's, or clinical laboratory toxicologist's license is thirty-eight dollars ($38). This fee shall be sixty-three dollars ($63) commencing on July 1, 1983.

(c) The application fee for a clinical laboratory scientist's or limited clinical laboratory scientist's license is twenty-three dollars ($23). This fee shall be thirty-eight dollars ($38) commencing on July 1, 1983.

(d) The application and annual renewal fee for a cytotechnologist's license shall be fifty dollars ($50) commencing on January 1, 1991.

(e) The annual renewal fee for a clinical laboratory scientist's or limited clinical laboratory scientist's license is fifteen dollars ($15). This fee shall be twenty-five dollars ($25) commencing on July 1, 1983.

(f) The application fee for a clinical laboratory license is six hundred dollars ($600).

(g) The annual renewal fee for a clinical laboratory license is five hundred fifty-seven dollars ($557).

(h) The application fee for a certificate of accreditation issued pursuant to Section 1223 is one hundred fifty dollars ($150).

(i) The annual renewal fee for a certificate of accreditation issued pursuant to Section 1223 is one hundred dollars ($100).

(j) In addition, clinical laboratories providing cytology services shall pay an annual fee that shall be set by the department in an amount needed to meet but not exceed the department's costs of proficiency testing and

special site surveys for these laboratories, and that shall be based upon the volume of cytologic slides examined by a laboratory. If the amount collected is less than or exceeds the amount needed for these purposes, the amount of fees collected from those laboratories in the following year shall be adjusted accordingly.

(k) The application fee for a trainee's license is eight dollars ($8). This fee shall be thirteen dollars ($13) commencing on July 1, 1983.

(*l*) The annual renewal fee for a trainee's license is five dollars ($5). This fee shall be eight dollars ($8) commencing on July 1, 1983.

(m) The application fee for a duplicate license is three dollars ($3). This fee shall be five dollars ($5) commencing on July 1, 1983.

(n) The delinquency fee is equal to the annual renewal fee.

(o) The director may establish a fee for examinations required under this chapter. The fee shall not exceed the total cost to the department in conducting the examination.

(p) The annual fee for a clinical laboratory subject to registration under paragraph (2) of subdivision (a) of Section 1265 and performing only those clinical laboratory tests or examinations considered waived under CLIA is fifty dollars ($50). The annual fee for a clinical laboratory subject to registration under paragraph (2) of subdivision (a) of Section 1265 and performing only provider-performed microscopy, as defined under CLIA is seventy-five dollars ($75). A clinical laboratory performing both waived and provider-performed microscopy shall pay an annual registration fee of seventy-five dollars ($75).

(q) The costs of the department in conducting a complaint investigation, imposing sanctions, or conducting a hearing under this chapter shall be paid by the clinical laboratory. The fee shall be no greater than the fee the laboratory would pay under CLIA for the same type of activities and shall not be payable if the clinical laboratory would not be required to pay those fees under CLIA.

(r) The state, a district, city, county, city and county, or other political subdivision, or any public officer or body shall be subject to the payment of fees established pursuant to this chapter or regulations adopted thereunder.

(s) In addition to the payment of registration or licensure fees, a clinical laboratory located outside the State of California shall reimburse the department for travel and per diem to perform any necessary onsite inspections at the clinical laboratory in order to ensure compliance with this chapter.

(t) Whenever a clinical laboratory has paid registration or compliance fees, or both, to HCFA under CLIA for the same period of time for which a license is issued under Section 1265, the fee required for the clinical laboratory license under subdivision (f) or (g), and as adjusted pursuant

to Section 100450 of the Health and Safety Code, shall be reduced by the percentage of the total of all CLIA registration and compliance fees paid to HCFA by all California laboratories that are made available to the department to carry out its functions as a CLIA agent in the federal fiscal year immediately prior to when the license fee is due.

(u) The department shall establish an application fee and a renewal fee for a medical laboratory technician license, the total fees collected not to exceed the costs of the department for the implementation and operation of the program licensing and regulating medical laboratory technicians pursuant to Section 1260.3.

SEC. 2. Section 1214 of the Health and Safety Code is amended to read:

1214. Each application under this chapter for an initial license, renewal license, license upon change of ownership, or special permit shall be accompanied by a Licensing and Certification Program fee, as follows:

(a) For all primary care clinics licensed pursuant to this chapter, the annual fee shall be set in accordance with Section 1266.

(b) For all specialty clinics licensed pursuant to this chapter, the annual fee shall be set in accordance with Section 1266.

(c) For all rehabilitation clinics, the annual fee shall be set in accordance with Section 1266.

SEC. 3. Section 1214.1 of the Health and Safety Code is amended to read:

1214.1. Notwithstanding the provisions of Section 1214, each application for a surgical clinic or a chronic dialysis clinic under this chapter for an initial license, renewal license, license upon change of ownership, or special permit shall be accompanied by an annual Licensing and Certification Program fee set in accordance with Section 1266.

SEC. 4. Section 1214.5 of the Health and Safety Code is amended to read:

1214.5. Each application under this chapter for an initial license, renewal license, license upon change of ownership, or special permit for a psychology clinic shall be accompanied by a Licensing and Certification Program fee set in accordance with Section 1266.

SEC. 5. Section 1266 of the Health and Safety Code is repealed.

SEC. 6. Section 1266 is added to the Health and Safety Code, to read:

1266. (a) Unless otherwise specified in statute, or unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation, the Licensing and Certification Division

shall, no later than the beginning of the 2009–10 fiscal year, be supported entirely by federal funds and special funds.

(b) The Licensing and Certification Program fees for the 2006–07 fiscal year shall be as follows:

Type of Facility	Fee	
General Acute Care Hospitals	$ 134.10	per bed
Acute Psychiatric Hospitals	$ 134.10	per bed
Special Hospitals	$ 134.10	per bed
Chemical Dependency Recovery Hospitals	$ 123.52	per bed
Skilled Nursing Facilities	$ 202.96	per bed
Intermediate Care Facilities	$ 202.96	per bed
Intermediate Care Facilities - Developmentally Disabled	$ 592.29	per bed
Intermediate Care Facilities - Developmentally Disabled - Habilitative	$1,000.00	per facility
Intermediate Care Facilities - Developmentally Disabled - Nursing	$1,000.00	per facility
Home Health Agencies	$2,700.00	per facility
Referral Agencies	$5,537.71	per facility
Adult Day Health Centers	$4,650.02	per facility
Congregate Living Health Facilities	$ 202.96	per bed
Psychology Clinics	$ 600.00	per facility
Primary Clinics - Community and Free	$ 600.00	per facility
Specialty Clinics - Rehab Clinics		
(For profit)	$2,974.43	per facility
(Nonprofit)	$ 500.00	per facility
Specialty Clinics - Surgical and Chronic	$1,500.00	per facility
Dialysis Clinics	$1,500.00	per facility
Pediatric Day Health/Respite Care	$ 142.43	per bed
Alternative Birthing Centers	$2,437.86	per facility
Hospice	$1,000.00	per facility
Correctional Treatment Centers	$ 590.39	per bed

(c) Commencing February 1, 2007, and every February 1 thereafter, the department shall publish a list of estimated fees pursuant to this section. The calculation of estimated fees and the publication of the report and list of estimated fees shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) By February 1 of each year, the department shall prepare the following reports and shall make those reports, and the list of estimated fees required to be published pursuant to subdivision (c), available to

the public by submitting them to the Legislature and posting them on the department's Internet Web site:

(1) The department shall prepare a report of all costs for activities of the Licensing and Certification Program. As part of this report, the department shall recommend Licensing and Certification Program fees in accordance with the following:

(A) Projected workload and costs shall be grouped for each fee category.

(B) Cost estimates, and the estimated fees, shall be based on the appropriation amounts in the Governor's proposed budget for the next fiscal year, with and without policy adjustments to the fee methodology.

(C) The allocation of program, operational, and administrative overhead, and indirect costs to fee categories shall be based on generally accepted cost allocation methods. Significant items of costs shall be directly charged to fee categories if the expenses can be reasonably identified to the fee category that caused them. Indirect and overhead costs shall be allocated to all fee categories using a generally accepted cost allocation method.

(D) The amount of federal funds and General Fund moneys to be received in the budget year shall be estimated and allocated to each fee category based upon an appropriate metric.

(E) The fee for each category will be determined by dividing the aggregate state share of all costs for the Licensing and Certification Program by the appropriate metric for the category of licensure.

(2) (A) The department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

(B) The analysis under this paragraph shall be made available to interested persons and shall include all of the following:

(i) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.

(ii) The percentage of time devoted to licensing and certification activities for the various types of health facilities.

(iii) The number of facilities receiving full surveys and the frequency and number of follow up visits.

(iv) The number and timeliness of complaint investigations.

(v) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(vi) Other applicable activities of the licensing and certification division.

(e) (1) The department shall adjust the list of estimated fees published pursuant to subdivision (c) if the annual Budget Act or other enacted legislation includes an appropriation that differs from those proposed in the Governor's proposed budget for that fiscal year.

(2) The department shall publish a final fee list, with an explanation of any adjustment, by the issuance of an all facilities letter, by posting the list on the department's Internet Web site, and by including the final fee list as part of the licensing application package, within 14 days of the enactment of the annual Budget Act. The adjustment of fees and the publication of the final fee list shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) (1) No fees shall be assessed or collected pursuant to this section from any state department, authority, bureau, commission, or officer, unless federal financial participation would become available by doing so and an appropriation is included in the annual Budget Act for that state department, authority, bureau, commission, or officer for this purpose. No fees shall be assessed or collected pursuant to this section from any clinic that is certified only by the federal government and is exempt from licensure under Section 1206, unless federal financial participation would become available by doing so.

(2) For the 2006–07 state fiscal year, no fee shall be assessed or collected pursuant to this section from any general acute care hospital owned by a health care district with 100 beds or less.

(g) The Licensing and Certification Program may change annual license expiration renewal dates to provide for efficiencies in operational processes or to provide for sufficient cash flow to pay for expenditures. If an annual license expiration date is changed, the renewal fee shall be prorated accordingly. Facilities shall be provided with a 60-day notice of any change in their annual license renewal date.

SEC. 7. Section 1266.5 is added to the Health and Safety Code, to read:

1266.5. (a) Whenever any entity required to pay fees pursuant to Section 1266 continues to operate beyond its license expiration date, without the Licensing and Certification Program renewal fees first having been paid as required by this division, those fees are delinquent.

(b) A late payment penalty shall be added to any delinquent fees due with an application for license renewal made later than midnight of the license expiration date. The late payment penalty shall be computed as follows:

(1) For a delinquency period of 30 days or less, the penalty shall be 10 percent of the fee.

(2) For a delinquency period of more than 30 days to and including 60 days, the penalty shall be 20 percent of the fee.

(3) For a delinquency period of more than 60 days, the penalty shall be 60 percent of the fee.

(c) The department may, upon written notification to the licensee, offset any moneys owed to the licensee by the Medi-Cal program or any other payment program administered by the department, to recoup the license renewal fee and any associated late payment penalties.

(d) No license may be renewed without payment of the Licensing and Certification Program fee plus any late payment penalty.

SEC. 8. Section 1266.7 is added to the Health and Safety Code, to read:

1266.7. The annual Licensing and Certification Program fee for a congregate living health facility shall be set in accordance with Section 1266.

SEC. 9. Section 1266.9 is added to the Health and Safety Code, to read:

1266.9. There is established within the Special Deposit Fund the Department of Health Services, Licensing and Certification Program Account. The revenue collected in accordance with Section 1266 shall be deposited in the Licensing and Certification Program Account and shall be available for expenditure upon appropriation to support the Licensing and Certification Program's operation. Interest earned on the funds in the Licensing and Certification Program Account shall be deposited as revenue into the Account to support the Licensing and Certification Program's operation.

SEC. 10. Section 1266.10 is added to the Health and Safety Code, to read:

1266.10. The amount of three million two hundred four thousand three hundred seventy dollars ($3,204,370) is appropriated from the General Fund to the State Department of Health Services, for a loan for use to support the operations of the Licensing and Certification Program. Repayment of this loan shall be made with proceeds from fees collected pursuant to Section 1266, in three equal annual installments of one million sixty-eight thousand one hundred twenty-three dollars ($1,068,123), commencing on July 1, 2007, or upon the enactment of the Budget Act of 2007, whichever is later.

SEC. 11. Section 1266.12 is added to the Health and Safety Code, to read:

1266.12. (a) The annual Licensing and Certification Program fee for a skilled nursing facility, intermediate care facility, general acute care hospital, acute psychiatric hospital, special hospital, chemical dependency recovery hospital, correctional treatment center, intermediate

care facility/developmentally disabled, intermediate care facility/developmentally disabled nursing, and intermediate care facility/developmentally disabled habilitative shall be set in accordance with Section 1266.

(b) Commencing January 1, 2007, the department shall give priority in conducting initial licensing surveys to each intermediate care facility/developmentally disabled, intermediate care facility/developmentally disabled habilitative, and intermediate care facility/developmentally disabled nursing. Upon successful completion of licensure, and upon notification by the facility that it is ready for an initial certification survey, the department shall schedule and initiate a certification survey within 60 days.

SEC. 12. Section 1337.6 of the Health and Safety Code is amended to read:

1337.6. (a) Certificates issued under this article shall be renewed every two years and renewal shall be conditional upon the occurrence of all of the following:

(1) The certificate holder submitting documentation of completion of 48 hours of in-service training every two years obtained through an approved training program or taught by a director of staff development for a licensed skilled nursing or intermediate care facility that has been approved by the department, or by individuals or programs approved by the department. At least 12 of the 48 hours of in-service training shall be completed in each of the two years. Twenty-four of the 48 hours of in-service training may be obtained through an online computer training program approved by the Licensing and Certification Division of the department.

(2) (A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:

(i) An interactive portion where the participants receive feedback, through online communication, based on input from the participant.

(ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.

(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and shall be made available to the department upon demand.

(B) The department may approve online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through

advanced technology, the course and the course delivery meet the other requirements of this section.

(3) The certificate holder obtaining a criminal record clearance.

(b) Certificates issued under this article shall expire on the certificate holder's birthday.

(c) To renew an unexpired certificate, the certificate holder shall, on or before the certificate expiration date, apply for renewal on a form provided by the department and submit documentation of the required in-service training.

(d) The department shall give written notice to a certificate holder 90 days in advance of the renewal date and, 90 days in advance of the expiration of the fourth year that a renewal application has not been submitted, and shall give written notice informing the certificate holder, in general terms, of the provisions of this article. Nonreceipt of the renewal notice does not relieve the certificate holder of the obligation to make a timely renewal. Failure to make a timely renewal shall result in expiration of the certificate.

(e) Except as otherwise provided in this article, an expired certificate may be renewed at any time within two years after its expiration on the filing of an application for renewal on a form prescribed by the department and documentation of the required in-service education.

Renewal under this article shall be effective on the date on which the application is filed. If so renewed, the certificate shall continue in effect until the date provided for in this article, when it shall expire if it is not again renewed.

(f) If a certified nurse assistant applies for renewal more than two years after the expiration, the certified nurse assistant shall complete an approved 75-hour competency evaluation training program and competency evaluation program. A suspended certificate is subject to expiration and shall be renewed as provided in this article, but this renewal does not entitle the certificate holder, while the certificate remains suspended, and, until it is reinstated, to engage in the certified activity, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(g) A revoked certificate is subject to expiration as provided in this article, but it cannot be renewed.

(h) Except as provided in subdivision (i), a certificate that is not renewed within four years after its expiration cannot be renewed, restored, reissued, or reinstated except upon completion of a certification program unless deemed otherwise by the department if both of the following conditions are met:

(1) No fact, circumstance, or condition exists that, if the certificate was issued, would justify its revocation or suspension.

(2) The person takes and passes any examination that may be required of an applicant for a new certificate at that time, that shall be given by an approved provider of a certification training program.

(i) A certified nurse assistant whose certificate has expired after two years may have his or her certificate renewed if he or she completes 75 hours in an approved competency evaluation training program, passes a competency test, and obtains a criminal background clearance prior to the renewal. The department shall develop a training program for these previously certified individuals.

(j) Certificate holders shall notify the department within 60 days of any change of address. Any notice sent by the department shall be effective if mailed to the current address filed with the department.

(k) Certificate holders that have been certified as both nurse assistants pursuant to this article and home health aides pursuant to Chapter 8 (commencing with Section 1725) of Division 2 shall renew their certificates at the same time on one application.

SEC. 13. Section 1337.7 of the Health and Safety Code is repealed.

SEC. 14. Section 1338.5 of the Health and Safety Code is amended to read:

1338.5. (a) (1) A criminal record clearance shall be conducted for all nurse assistants by the submission of fingerprint cards to the state department for processing at the Department of Justice. This criminal record clearance shall be completed prior to issuing or renewing a certificate. The fee to cover the processing costs of the Department of Justice, not including the costs associated with rolling the fingerprint cards, shall not exceed thirty-two dollars ($32) per card.

(2) Upon enrollment in a training program for nurse assistant certification, and prior to direct contact with residents, a candidate for training shall submit a training and examination application and the fingerprint cards to the state department to receive a criminal record review through the Department of Justice. Submission of the fingerprints to the Federal Bureau of Investigation shall be at the discretion of the state department.

(3) Each health facility that operates and is used as a clinical skills site for certification training, and each health facility, prior to hiring a nurse assistant applicant certified in another state or country, shall arrange for and pay the cost of the fingerprint live-scan service and the Department of Justice processing costs for each applicant. Health facilities may not pass these costs through to nurse assistant applicants unless allowed by federal law enacted subsequent to the effective date of this paragraph.

(b) Upon receipt of the fingerprints, the Department of Justice shall notify the state department of the criminal record information, as provided

for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the state department with a statement of that fact. If the fingerprints are illegible, the Department of Justice shall, within 15 calendar days from receipt of the fingerprints, notify the state department of that fact.

(c) The department shall respond to the applicant and employer within 30 days from the date of receipt of the fingerprint cards.

(d) The use of fingerprint live-scan technology implemented by the Department of Justice by the year 1999 shall be used by the Department of Justice to generate timely and accurate positive fingerprint identification prior to nurse assistant certification.

(e) The state department shall develop procedures to ensure that any licensee, direct care staff, or certificate holder for whom a criminal record has been obtained pursuant to this section or Section 1265.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(f) If the department receives a fingerprint card from a certified nursing assistant 60 days prior to the expiration of the certified nursing assistant's certification and the department has received no response from the Department of Justice, or if the department is experiencing a delay in processing the renewal of the certified nursing assistant's certification at the time of the expiration of the certified nursing assistant's certification, the department may extend the expiration of the certified nursing assistant's certification for 60 days. This provision shall expire August 1, 2001.

SEC. 15. Section 1403 of the Health and Safety Code is amended to read:

1403. Each application for a license or renewal of license under this chapter shall be accompanied by an annual Licensing and Certification Program fee set in accordance with Section 1266. Each license shall expire 12 months from its date of issuance and application for renewal accompanied by the fee shall be filed with the director not later than 30 days prior to the date of expiration.

SEC. 16. Section 1403.1 of the Health and Safety Code is repealed.

SEC. 17. Section 1575.9 of the Health and Safety Code is amended to read:

1575.9. Each application for a new license or renewal submitted to the state department shall be accompanied by an annual Licensing and Certification Program fee set in accordance with Section 1266.

SEC. 18. Section 1729 of the Health and Safety Code is amended to read:

1729. Each application for a license under this chapter, except applications by the State of California or any state department, authority, bureau, commission, or officer, shall be accompanied by a Licensing

and Certification Program fee for the headquarters or main office of the agency and for each additional branch office maintained and operated by the agency in the amount set in accordance with Section 1266.

SEC. 19. Section 1729.1 of the Health and Safety Code is repealed.

SEC. 20. Section 1730 of the Health and Safety Code is amended to read:

1730. Each license issued under this chapter shall expire 12 months from the date of its issuance. Application for renewal of license accompanied by the necessary fee shall be filed with the state department annually, not less than 30 days prior to expiration date. Failure to make a timely renewal shall result in expiration of the license.

SEC. 21. Section 1736.2 of the Health and Safety Code is amended to read:

1736.2. (a) Certificates issued for certified home health aides shall be renewed every two years and renewal shall be conditioned on the certificate holder obtaining a criminal record clearance pursuant to Section 1736.6.

(b) Certificates issued to certified home health aides shall expire on the certificate holder's birthday.

(c) To renew an unexpired certificate, the certificate holder shall, on or before the certificate expiration date, apply for renewal on a form provided by the state.

(d) The department shall give written notice to a certificate holder 90 days in advance of the renewal date and 90 days in advance of the expiration of the fourth year that an application has not been submitted, and shall give written notice informing the certificate holder in general terms of the provisions governing certificate renewal for certified home health aides. Nonreceipt of the renewal notice does not relieve the certificate holder of the obligation to make a timely renewal. Failure to make a timely renewal shall result in expiration of the certificate.

(e) Except as otherwise provided in this article, an expired certificate may be renewed at any time within four years after its expiration on the filing of an application for renewal on a form prescribed by the department.

Renewal under this article shall be effective on the date on which the application is filed. If renewed, the certificate shall continue in effect until the date provided for in this section, when it shall expire if it is not again renewed.

(f) If a certified home health aide applies for renewal more than 30 days after expiration but within four years after the expiration, and demonstrates in writing to the department's satisfaction why the renewal application was late, then the state department shall issue a renewal. A suspended certificate is subject to expiration and shall be renewed as

provided in this article, but this renewal does not entitle the certificate holder, while the certificate remains suspended, and until it is reinstated, to engage in the certified activity, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(g) A revoked certificate is subject to expiration as provided in this section, but it cannot be renewed.

(h) A certificate that is not renewed within four years after its expiration cannot be renewed, restored, reissued, or reinstated except upon completion of a certification training program unless deemed otherwise by the state department if both of the following conditions are met:

(1) No fact, circumstance, or condition exists that, if the certificate were issued, would justify its revocation or suspension.

(2) The person takes and passes any examination that may be required of an applicant for a new certificate at that time, that shall be given by an approved provider of a certification training program.

(i) Certificate holders shall notify the department within 60 days of any change of address. Any notice sent by the department shall be effective if mailed to the current address filed with the department.

(j) Certificate holders that have been certified as both nurse assistants pursuant to Article 9 (commencing with Section 1337) of Chapter 2 of Division 2 and home health aides pursuant to this chapter shall renew their certificates at the same time on one application.

SEC. 22. Section 1736.3 of the Health and Safety Code is repealed.

SEC. 23. Section 1743.17 of the Health and Safety Code is amended to read:

1743.17. Each application for a private duty nursing agency license under this chapter, except applications by this state or any state department, authority, bureau, commission, or officer, shall be accompanied by a Licensing and Certification Program fee for the headquarters or main office of the agency and for each additional branch office maintained and operated by the agency in the amount set in accordance with Section 1266.

SEC. 24. Section 1743.19 of the Health and Safety Code is amended to read:

1743.19. Each private duty nursing agency license issued under this chapter shall expire 12 months from the date of its issuance. Application for renewal of license accompanied by the necessary fee shall be filed with the department annually, not less than 30 days prior to expiration date. Failure to make a timely renewal shall result in expiration of the license.

SEC. 25. Section 1750 of the Health and Safety Code is amended to read:

1750. (a) Each new and renewal application for a license under this chapter shall be accompanied by an annual Licensing and Certification Program fee set in accordance with Section 1266.

(b) All hospices shall maintain compliance with the licensing requirements. These requirements shall not, however, prohibit the use of alternate concepts, methods, procedures, techniques, space, equipment, personnel qualifications, or the conducting of pilot projects, necessary for program flexibility. Program flexibility shall be carried out with provision for safe and adequate patient care and with prior written approval of the state department. A written request for program flexibility and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the state department. The state department shall approve or deny the request within 60 days of submission. Approval shall be in writing and shall provide for the terms and conditions under which program flexibility is approved. A denial shall be in writing and shall specify the basis therefor. If after investigation the state department determines that a hospice using program flexibility pursuant to this section is operating in a manner contrary to the terms or conditions of the approval for program flexibility, the director shall immediately revoke that approval.

(c) Each hospice shall, on or before March 15 of each year, file with the Office of Statewide Health Planning and Development (OSHPD), upon forms furnished by OSHPD, a verified report for the preceding calendar year upon all matters requested by OSHPD. This report may include, but not be limited to, data pertaining to age of patients, diagnostic categories of patients, and number of visits by service provided.

SEC. 26. Section 1760.5 is added to the Health and Safety Code, to read:

1760.5. The annual Licensing and Certification Program fee for a pediatric day health and respite care facility, as defined in Section 1760.2, shall be set in accordance with Section 1266.

SEC. 27. Section 1794.06 of the Health and Safety Code is amended to read:

1794.06. Each application for a license under this chapter shall be accompanied by a Licensing and Certification Program fee set in accordance with Section 1266.

SEC. 28. Section 100445 of the Health and Safety Code is repealed.

SEC. 29. Section 100922 of the Health and Safety Code is amended to read:

100922. (a) Notwithstanding any other provision of law, a freestanding cardiac catheterization laboratory that as of December 31, 1993, was in active status in the Health Care Pilot Project established pursuant to former Part 1.85 (commencing with Section 444) of Division

1, and that meets the requirements specified in this section, may be licensed by the State Department of Health Services as a freestanding cardiac catheterization laboratory. The license shall be subject to suspension or revocation, or both, in accordance with Article 5 (commencing with Section 1240) of Chapter 1 of Division 2. An application for licensure or annual renewal shall be accompanied by a Licensing and Certification Program fee set in accordance with Section 1266.

(b) A laboratory granted a license pursuant to this section shall be subject to the department's regulations that govern cardiac catheterization laboratories operating in hospitals without facilities for cardiac surgery, any similar regulations that may be developed by the department specifically to govern freestanding cardiac catheterization laboratories, and to the following regulations: subdivisions (a) and (d) of Section 70129 of; paragraphs (1), (2), (3), and (4) of subdivision (a) of, and subdivision (i) of Section 70433 of; paragraphs (1), (3), (4), and (5) of subdivision (a) of Section 70435 of; subparagraphs (A), (B), and (D) of paragraph (1) of, and paragraphs (5) and (7) of, subdivision (b) of Section 70437 of; subdivision (a) of Section 70439 of; Sections 70841, 75021, and 75022 of; subdivision (a) of Section 75023 of; Sections 75024, 75025, and 75026 of; subdivisions (a), (b), and (c) of Section 75027 of; subdivision (b) of Section 75029 of; Section 75030 of; subdivision (b) of Section 75031 of; Sections 75034, 75035, 75037, 75039, 75045, and 75046 of; subdivision (a) of Section 75047 of; and Sections 75050, 75051, 75052, 75053, 75054, 75055, 75057, 75059, 75060, 75061, 75062, 75063, 75064, 75065, 75066, 75071, and 75072 of; Title 22 of the California Code of Regulations.

(c) A laboratory granted a license pursuant to this section shall have a system for the ongoing evaluation of its operations and the services it provides. This system shall include a written plan for evaluating the efficiency and effectiveness of the health care services provided that describes the following:

(1) The scope of the services provided.

(2) Measurement indicators regarding the processes and outcomes of the services provided.

(3) The assignment of responsibility when the data from the measurement indicators demonstrates the need for action.

(4) A mechanism to ensure followup evaluation of the effectiveness of the actions taken.

(5) An annual evaluation of the plan.

(d) A laboratory granted a license pursuant to this section is authorized to perform only the following diagnostic procedures:

(1) Right heart catheterization or angiography, or both.

(2) Left heart catheterization or angiography, or both.
(3) Coronary catheterization and angiography.
(4) Electrophysiology studies.

(e) A laboratory granted a license pursuant to this section shall only perform its procedures on adults, on an outpatient basis. Each laboratory shall define patient characteristics that are appropriate for safe performance of procedures in the laboratory, and include evaluation of these criteria in its quality assurance process.

(f) Notwithstanding the requirements already set forth in this chapter, freestanding cardiac catheterization laboratories shall comply with all other applicable federal, state, and local laws.

(g) This section shall become operative on January 1, 1995, and does not require the department to adopt regulations.

SEC. 30. Section 101315.2 is added to the Health and Safety Code, to read:

101315.2. Of the sixteen million dollars ($16,000,000) appropriated in the Budget Act of 2006 for local health jurisdictions for the purpose of preparing California for public health emergencies, including a potential pandemic influenza event, a baseline allocation of one hundred twenty-five thousand dollars ($125,000) shall be provided to each local health jurisdiction first, with the remaining amount allocated on a per population basis using the population information possessed by the Department of Finance.

SEC. 31. Section 103526 of the Health and Safety Code is amended to read:

103526. (a) If the State Registrar, local registrar, or county recorder receives a written or faxed request for a certified copy of a birth or death record pursuant to Section 103525, or a military service record pursuant to Section 6107 of the Government Code, that is accompanied by a notarized statement sworn under penalty of perjury, or a faxed copy of a notarized statement sworn under penalty of perjury, that the requester is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant in accordance with Section 103525 and in accordance with Section 6107 of the Government Code. If a written request for a certified copy of a military service record is submitted to a county recorder by fax, the county recorder may furnish a certified copy of the military record to the applicant in accordance with Section 103525. A faxed notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth or death record or a military service record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the

notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth or death record is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

(b) In all other circumstances, the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." The legend shall be placed on the certificate in a manner that will not conceal information.

(c) For purposes of this section, an "authorized person" is any of the following:

(1) The registrant or a parent or legal guardian of the registrant.

(2) A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.

(3) A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.

(4) A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.

(5) An attorney representing the registrant or the registrant's estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant's estate.

(6) Any agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders certified copies of a death certificate on behalf of any individual specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100.

(d) Any person who asks the agent or employee of a funeral establishment to request a death certificate on his or her behalf warrants the truthfulness of his or her relationship to the decedent, and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

(e) Notwithstanding any other provision of law:

(1) Any member of a law enforcement agency or a representative of a state or local government agency, as provided by law, who orders a copy of a record to which subdivision (a) applies in conducting official business may not be required to provide the notarized statement required by subdivision (a).

(2) An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

(f) Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from any source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on July 1, 2007, but only after the statewide database becomes operational and the full calendar year of the birth and death indices and images is entered into the statewide database and is available for the respective year of the birth or death certificate for which an informational copy is requested. The State Registrar shall provide written notification to local registrars and county recorders as soon as a year becomes available for issuance from the statewide database.

SEC. 32. Section 103526.5 of the Health and Safety Code is amended to read:

103526.5. (a) Each certified copy of a birth or death record issued pursuant to Section 103525 shall include the date issued, the name of the issuing officer, the signature of the issuing officer, whether that is the State Registrar, local registrar, county recorder, or county clerk, or an authorized facsimile thereof, and the seal of the issuing office.

(b) (1) All certified copies of birth and death records issued pursuant to Section 103525 shall be printed on chemically sensitized security paper that measures 8 ½ by 11 inches and that has the following features:

(A) Intaglio print.

(B) Latent image.

(C) Fluorescent, consecutive numbering with matching barcode.

(D) Microprint line.

(E) Prismatic printing.

(F) Watermark.

(G) Void pantograph.

(H) Fluorescent security threads.

(I) Fluorescent fibers.

(J) Any other security features deemed necessary by the State Registrar.

(2) In addition to the security features required by paragraph (1), commencing January 1, 2009, the security paper used for informational

certified copies of birth and death records pursuant to subdivision (b) of Section 103526 shall also contain a statement in perforated type that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY."

(c) The State Registrar, local registrars, county recorders, and county clerks shall take precautions to ensure that uniform and consistent standards are used statewide to safeguard the security paper described in subdivision (b), including, but not limited to, the following measures:

(1) Security paper shall be maintained under secure conditions so as not to be accessible to the public.

(2) A log shall be kept of all visitors allowed in the area where security paper is stored.

(3) All spoilage shall be accounted for and subsequently destroyed by shredding on the premises.

SEC. 33. Section 107080 of the Health and Safety Code is amended to read:

107080. (a) The application fee for any certificate or permit issued pursuant to the Radiologic Technology Act (Section 27) shall be established by the department in an amount as it deems reasonably necessary to carry out the purpose of that act.

(b) The fee for any examination conducted pursuant to the Radiologic Technology Act (Section 27) after failure of that examination within the previous 12 months shall be fixed by the department in an amount it deems reasonably necessary to carry out that act.

(c) The annual renewal fee for each certificate or permit shall be fixed by the department in an amount it deems reasonably necessary to carry out the Radiologic Technology Act (Section 27).

(d) The penalty fee for renewal of any certificate or permit if application is made after its date of expiration shall be five dollars ($5) and shall be in addition to the fee for renewal prescribed by subdivision (c).

(e) The fee for a duplicate certificate or permit shall be one dollar ($1).

(f) No fee shall be required for a certificate or permit or a renewal thereof except as prescribed in the Radiologic Technology Act (Section 27).

SEC. 34. Section 111615 of the Health and Safety Code is amended to read:

111615. No person shall manufacture any drug or device in this state unless he or she has a valid license from the department. The license is valid for two calendar years from the date of issue, unless it is revoked. The license is not transferable.

The department may require any manufacturer, wholesaler, or importer of any prescription ophthalmic device in this state to obtain a license.

SEC. 35. Section 111625 of the Health and Safety Code is amended to read:

111625. A license application shall be completed biennially and accompanied by an application fee as prescribed in Section 111630. This fee is not refundable if the license is refused.

SEC. 36. Section 115065 of the Health and Safety Code is amended to read:

115065. (a) Notwithstanding Section 6103 of the Government Code, the department shall provide by regulation a schedule of the fees that shall be paid by the following persons:

(1) Persons possessing radioactive materials under licenses issued by the department or under other state or federal licenses for the use of these radioactive materials, when these persons use these radioactive materials in the state in accordance with the regulations adopted pursuant to subdivision (d) of Section 115060.

(2) Persons generally licensed for the use of devices and equipment utilizing radioactive materials that are designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, if the devices are manufactured pursuant to a specific license authorizing distribution to general licensees.

(b) The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of the issuance of licenses or the inspection and regulation of the licensees.

(c) The department may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to establish and adjust fees for radioactive materials licenses in an amount to produce estimated revenues equal to at least 95 percent of the department's costs in carrying out these licensing requirements, if the new fees were to remain in effect throughout the fiscal year for which the fee is established or adjusted.

(d) A local agency participating in a negotiated agreement pursuant to Section 114990 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 115070. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department.

(e) The fees for licenses for radioactive materials and of devices and equipment utilizing those materials shall be adjusted annually pursuant to Section 100425.

(f) The department shall establish fees for followup inspections related to the failure to correct violations of this chapter or regulations adopted pursuant to this chapter. The fees established by the department may be charged for each inspection visit.

SEC. 37. Section 115080 of the Health and Safety Code is amended to read:

115080. (a) Notwithstanding Section 6103 of the Government Code, the department shall provide by regulation a ranking of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation and the requirements of Section 115085, and a schedule of fees, based upon that priority ranking, that shall be paid by persons possessing sources of ionizing radiation that are subject to registration in accordance with subdivisions (b) and (e) of Section 115060, and regulations adopted pursuant thereto. The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of the sources of ionizing radiation required by this chapter or regulations adopted pursuant thereto. The fees shall, together with any other funds made available to the department, be sufficient to cover the costs of administering this chapter, and shall be set in amounts intended to cover the costs of administering this chapter for each priority source of ionizing radiation. Revenues generated by the fees shall not offset any general funds appropriated for the support of the radiologic programs authorized pursuant to this chapter, and the Radiologic Technology Act (Section 27), and Chapter 7.6 (commencing with Section 114960). Persons who pay fees shall not be required to pay, directly or indirectly, for the share of the costs of administering this chapter of those persons for whom fees are waived. The department shall take into consideration any contract payment from the Health Care Financing Administration for performance of inspections for Medicare certification and shall reduce this fee accordingly.

(b) A local agency participating in a negotiated agreement pursuant to Section 114990 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 115085. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department. Any changes in the frequency of inspections or the level of reimbursement to local agencies made by this section or Section 115085 during the 1985–86 Regular Session shall not affect ongoing contracts.

(c) The fees paid by persons possessing sources of ionizing radiation shall be adjusted annually pursuant to Section 100425.

(d) The department shall establish two different registration fees for mammography equipment pursuant to this section based upon whether

the equipment is accredited by an independent accrediting agency recognized under the federal Mammography Quality Standards Act (42 U.S.C. Sec. 263b).

(e) The department shall establish fees for followup inspections related to the failure to correct violations of this chapter or regulations adopted pursuant to this chapter. The fees established by the department may be charged for each inspection visit.

SEC. 38. Section 117971 is added to the Health and Safety Code, to read:

117971. In addition to the fees collected pursuant to Section 117995, the department, in the implementation of this part, shall recover its actual costs for services related to large quantity medical waste generator followup inspections and enforcement activities necessary to ensure compliance with this part. In no event shall the department charge more than the actual costs incurred by the department.

SEC. 39. Section 117995 of the Health and Safety Code is amended to read:

117995. The registration and annual permit fee for large quantity generators shall be set in following amounts:

(a) (1) A general acute care hospital, as defined in subdivision (a) of Section 1250, that has one or more beds, but not more than 99 beds, shall pay six hundred dollars ($600), a facility with 100 or more beds, but not more than 199 beds, shall pay eight hundred sixty dollars ($860), a facility with 200 or more beds, but not more than 250 beds shall pay one thousand one hundred dollars ($1,100), and a facility with 251 or more beds shall pay one thousand four hundred dollars ($1,400).

(2) In addition to the fees specified in paragraph (1), a general acute care hospital which is providing onsite treatment of medical waste shall pay an annual medical waste treatment facility inspection and permit fee of three hundred dollars ($300), if the facility has one or more beds but not more than 99 beds, five hundred dollars ($500), if the facility has 100 or more beds but not more than 250 beds, and one thousand dollars ($1,000), if the facility has 251 or more beds.

(b) A specialty clinic, providing surgical, dialysis, or rehabilitation services, as defined in subdivision (b) of Section 1204, shall pay three hundred fifty dollars ($350).

(c) A skilled nursing facility, as defined in subdivision (c) of Section 1250, that has one or more beds, but not more than 99 beds shall pay two hundred seventy-five dollars ($275), a facility with 100 or more beds, but not more than 199 beds shall pay three hundred fifty dollars ($350), and a facility with 200 or more beds shall pay four hundred dollars ($400).

(d) An acute psychiatric hospital, as defined in subdivision (b) of Section 1250, shall pay two hundred dollars ($200).

(e) An intermediate care facility, as defined in subdivision (d) of Section 1250, shall pay three hundred dollars ($300).

(f) A primary care clinic, as defined in Section 1200.1, shall pay three hundred fifty dollars ($350).

(g) A licensed clinical laboratory, as defined in paragraph (3) of subdivision (a) of Section 1206 of the Business and Professions Code, shall pay two hundred dollars ($200).

(h) A health care service plan facility, as defined in subdivision (f) of Section 1345, shall pay three hundred fifty dollars ($350).

(i) A veterinary clinic or veterinary hospital shall pay two hundred dollars ($200).

(j) A large quantity generator medical office shall pay two hundred dollars ($200).

(k) In addition to the fees specified in subdivisions (b) to (j), inclusive, a large quantity generator of medical waste which is providing onsite treatment of medical waste shall pay an annual medical waste treatment facility inspection and permit fee of three hundred dollars ($300).

(*l*) The department may collect annual fees and issue permits on a biennial basis.

SEC. 40. Section 118210 of the Health and Safety Code is amended to read:

118210. (a) The department shall charge an annual permit fee for an offsite medical waste treatment facility equal to either one hundred twenty-seven ten thousandths of a cent ($0.0127) for each pound of medical waste treated or twelve thousand dollars ($12,000), whichever is greater. The department may collect annual fees and issue permits on a biennial basis.

(b) The department shall charge an initial application fee for each type of treatment technology at an offsite medical waste treatment facility equal to one hundred dollars ($100) for each hour the department spends processing the application, but not more than fifty thousand dollars ($50,000), or as provided in the regulations adopted by the department.

SEC. 41. Section 124977 of the Health and Safety Code is amended to read:

124977. (a) It is the intent of the Legislature that, unless otherwise specified, the program carried out pursuant to this chapter be fully supported from fees collected for services provided by the program.

(b) (1) The department shall charge a fee to all payers for any tests or activities performed pursuant to this chapter. The amount of the fee shall be established by regulation and periodically adjusted by the director in order to meet the costs of this chapter. Notwithstanding any other

provision of law, any fees charged for prenatal screening and followup services provided to persons enrolled in the Medi-Cal program, health care service plan enrollees, or persons covered by health insurance policies, shall be paid in full directly to the Genetic Disease Testing Fund, subject to all terms and conditions of each enrollee's or insured's health care service plan or insurance coverage, whichever is applicable, including, but not limited to, copayments and deductibles applicable to these services, and only if these copayments, deductibles, or limitations are disclosed to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

(2) The department shall expeditiously undertake all steps necessary to implement the fee collection process, including personnel, contracts, and data processing, so as to initiate the fee collection process at the earliest opportunity.

(3) The director shall convene, in the most cost-efficient manner and using existing resources, a working group comprised of health insurance, health care service plan, hospital, consumer, and department representatives to evaluate newborn and prenatal screening fee billing procedures, and recommend to the department ways to improve these procedures in order to improve efficiencies and enhance revenue collections for the department and hospitals. In performing its duties, the working group may consider models in other states. The working group shall make its recommendations by March 1, 2005.

(4) Effective for services provided on and after July 1, 2002, the department shall charge a fee to the hospital of birth, or, for births not occurring in a hospital, to families of the newborn, for newborn screening and followup services. The hospital of birth and families of newborns born outside the hospital shall make payment in full to the Genetic Disease Testing Fund. The department shall not charge or bill Medi-Cal beneficiaries for services provided under this chapter.

(c) (1) The Legislature finds that timely implementation of changes in genetic screening programs and continuous maintenance of quality statewide services requires expeditious regulatory and administrative procedures to obtain the most cost-effective electronic data processing, hardware, software services, testing equipment, and testing and followup services.

(2) The expenditure of funds from the Genetic Disease Testing Fund for these purposes shall not be subject to Section 12102 of, and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of, the Public Contract Code, or to Division 25.2 (commencing with Section 38070). The department shall provide the Department of Finance with documentation that equipment and services have been obtained at the

lowest cost consistent with technical requirements for a comprehensive high-quality program.

(3) The expenditure of funds from the Genetic Disease Testing Fund for implementation of the Tandem Mass Spectrometry screening for fatty acid oxidation, amino acid, and organic acid disorders, and screening for congenital adrenal hyperplasia may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts and shall not be subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, and any policies, procedures, regulations or manuals authorized by those laws.

(4) The expenditure of funds from the Genetic Disease Testing Fund for the expansion of the Genetic Disease Branch Screening Information System to include cystic fibrosis and biotinidase may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts, and shall not be subject to Chapter 2 (commencing with Section 10290) or Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180, inclusive, of the State Administrative Manual as they relate to approval of information technology projects or approval of increases in the duration or costs of information technology projects. This paragraph shall apply to the design, development, and implementation of the expansion, and to the maintenance and operation of the Genetic Disease Branch Screening Information System, including change requests, once the expansion is implemented.

(d) (1) The department may adopt emergency regulations to implement and make specific this chapter in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. Notwithstanding Section 11346.1 and Section 11349.6 of the Government Code, the department shall submit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State. Regulations shall be subject to public hearing within 120 days of filing with the Secretary of State and shall

comply with Sections 11346.8 and 11346.9 of the Government Code or shall be repealed.

(2) The Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the regulations adopted pursuant to this chapter shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(3) The Legislature finds and declares that the health and safety of California newborns is in part dependent on an effective and adequately staffed genetic disease program, the cost of which shall be supported by the fees generated by the program.

SEC. 42. Section 12693.70 of the Insurance Code is amended to read:

12693.70. To be eligible to participate in the program, an applicant shall meet all of the following requirements:

(a) Be an applicant applying on behalf of an eligible child, which means a child who is all of the following:

(1) Less than 19 years of age. An application may be made on behalf of a child not yet born up to three months prior to the expected date of delivery. Coverage shall begin as soon as administratively feasible, as determined by the board, after the board receives notification of the birth. However, no child less than 12 months of age shall be eligible for coverage until 90 days after the enactment of the Budget Act of 1999.

(2) Not eligible for no-cost full-scope Medi-Cal or Medicare coverage at the time of application.

(3) In compliance with Sections 12693.71 and 12693.72.

(4) A child who meets citizenship and immigration status requirements that are applicable to persons participating in the program established by Title XXI of the Social Security Act, except as specified in Section 12693.76.

(5) A resident of the State of California pursuant to Section 244 of the Government Code; or, if not a resident pursuant to Section 244 of the Government Code, is physically present in California and entered the state with a job commitment or to seek employment, whether or not employed at the time of application to or after acceptance in, the program.

(6) (A) In either of the following:

(i) In a family with an annual or monthly household income equal to or less than 200 percent of the federal poverty level.

(ii) When implemented by the board, subject to subdivision (b) of Section 12693.765 and pursuant to this section, a child under the age of two years who was delivered by a mother enrolled in the Access for

Infants and Mothers Program as described in Part 6.3 (commencing with Section 12695). Commencing July 1, 2007, eligibility under this subparagraph shall not include infants during any time they are enrolled in employer-sponsored health insurance or are subject to an exclusion pursuant to Section 12693.71 or 12693.72, or are enrolled in the full-scope of benefits under the Medi-Cal program at no share of cost. For purposes of this clause, any infant born to a woman whose enrollment in the Access for Infants and Mothers Program begins after June 30, 2004, shall be automatically enrolled in the Healthy Families Program, except during any time on or after July 1, 2007, that the infant is enrolled in employer-sponsored health insurance or is subject to an exclusion pursuant to Section 12693.71 or 12693.72, or is enrolled in the full-scope of benefits under the Medi-Cal program at no share of cost. Except as otherwise specified in this section, this enrollment shall cover the first 12 months of the infant's life. At the end of the 12 months, as a condition of continued eligibility, the applicant shall provide income information. The infant shall be disenrolled if the gross annual household income exceeds the income eligibility standard that was in effect in the Access for Infants and Mothers Program at the time the infant's mother became eligible, or following the two-month period established in Section 12693.981 if the infant is eligible for Medi-Cal with no share of cost. At the end of the second year, infants shall again be screened for program eligibility pursuant to this section, with income eligibility evaluated pursuant to clause (i), subparagraphs (B) and (C), and paragraph (2) of subdivision (a).

(B) All income over 200 percent of the federal poverty level but less than or equal to 250 percent of the federal poverty level shall be disregarded in calculating annual or monthly household income.

(C) In a family with an annual or monthly household income greater than 250 percent of the federal poverty level, any income deduction that is applicable to a child under Medi-Cal shall be applied in determining the annual or monthly household income. If the income deductions reduce the annual or monthly household income to 250 percent or less of the federal poverty level, subparagraph (B) shall be applied.

(b) The applicant shall agree to remain in the program for six months, unless other coverage is obtained and proof of the coverage is provided to the program.

(c) An applicant shall enroll all of the applicant's eligible children in the program.

(d) In filing documentation to meet program eligibility requirements, if the applicant's income documentation cannot be provided, as defined in regulations promulgated by the board, the applicant's signed statement

as to the value or amount of income shall be deemed to constitute verification.

(e) An applicant shall pay in full any family contributions owed in arrears for any health, dental, or vision coverage provided by the program within the prior 12 months.

SEC. 43. Section 12695.03 is added to the Insurance Code, to read:

12695.03. "AIM-linked infant" means any infant born to a woman whose enrollment in the Access for Infants and Mothers Program begins after June 30, 2004.

SEC. 44. Section 12696.05 of the Insurance Code is amended to read:

12696.05. The board may do all of the following:

(a) Determine eligibility criteria for the program. These criteria shall include the requirements set forth in Section 12698.

(b) Determine the eligibility of applicants.

(c) Determine when subscribers are covered and the extent and scope of coverage.

(d) Determine subscriber contribution amounts schedules.

(1) Subscriber contribution amounts for care provided to the subscriber shall be indexed to the federal poverty level and shall not exceed 2 percent of a subscriber's annual gross family income.

(2) In addition to any other subscriber contribution specified in this subdivision, for subscribers enrolled on or after July 1, 2007, the board may also assess an additional subscriber contribution to cover the AIM-linked infant enrolled in the Healthy Families Program pursuant to clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70 for two months, using all applicable discounts pursuant to Section 12693.43.

(3) The board shall determine the manner in which the subscriber contributions are to be applied, including the order in which they are applied.

(e) Provide coverage through participating health plans or through coordination with other state programs, and contract for the processing of applications and the enrollment of subscribers. Any contract entered into 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 projected and actual subscriber enrollments in a total amount not to exceed the amount appropriated for the program.

(f) Authorize expenditures from the fund to pay program expenses which exceed subscriber contributions, and to administer the program as necessary.

(g) Develop a promotional component of the program to make Californians aware of the program and the opportunity that it presents.

(h) Issue rules and regulations as necessary to administer the program. All rules and regulations issued pursuant to this subdivision that manage program integrity, revise the benefit package, or reduce the eligibility criteria below 300 percent of the federal poverty level may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(i) Exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed by this part.

SEC. 45. Section 12699 of the Insurance Code is amended to read:

12699. (a) The Perinatal Insurance Fund is hereby created in the State Treasury.

(b) Amounts deposited in the fund shall only be used for the purposes specified by this chapter.

(c) Notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated, without regard to fiscal years, to the board, for the purposes specified in this part.

(d) The board shall determine the portion of the subscriber contribution that shall be transferred from the Perinatal Insurance Fund to the Healthy Families Fund for the payment of the Healthy Families Program premium for the AIM-linked infant pursuant to paragraph (2) of subdivision (d) of Section 12696.05.

SEC. 46. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board

of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided

that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

SEC. 47. Section 4107 of the Welfare and Institutions Code is amended to read:

4107. (a) The security of patients committed pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of

Part 2 of, the Penal Code, and former Sections 6316 and 6321 of the Welfare and Institutions Code, at Patton State Hospital shall be the responsibility of the Director of the Department of Corrections.

(b) The Department of Corrections and the State Department of Mental Health shall jointly develop a plan to transfer all patients committed to Patton State Hospital pursuant to the provisions in subdivision (a) from Patton State Hospital no later than January 1, 1986, and shall transmit this plan to the Senate Committee on Judiciary and to the Assembly Committee on Criminal Justice, and to the Senate Health and Welfare Committee and Assembly Health Committee by June 30, 1983. The plan shall address whether the transferred patients shall be moved to other state hospitals or to correctional facilities, or both, for commitment and treatment.

(c) Notwithstanding any other provision of law, the State Department of Mental Health shall house no more than 1,336 patients at Patton State Hospital. However, until September 2009, up to 1,530 patients may be housed at the hospital.

(d) The Department of Corrections and the State Department of Mental Health shall jointly develop a plan for ensuring the external and internal security of the hospital during the construction of additional beds at Patton State Hospital and the establishment of related modular program space for which funding is provided in the Budget Act of 2001. No funds shall be expended for the expansion project until 30 days after the date upon which the plan is submitted to the fiscal committees of the Legislature and the Chair of the Joint Legislative Budget Committee.

(e) The Department of Corrections and the State Department of Mental Health shall also jointly develop a plan for ensuring the external and internal security of the hospital upon the occupation of the additional beds at Patton State Hospital. These beds shall not be occupied by patients until the later of the date that is 30 days after the date upon which the plan is submitted to the Chair of the Joint Legislative Budget Committee or the date upon which it is implemented by the departments.

(f) This section shall remain in effect only until all patients committed, pursuant to the provisions enumerated in subdivision (a), have been removed from Patton State Hospital and shall have no force or effect on or after that date.

SEC. 48. Section 4640.6 of the Welfare and Institutions Code is amended to read:

4640.6. (a) In approving regional center contracts, the department shall ensure that regional center staffing patterns demonstrate that direct service coordination are the highest priority.

(b) Contracts between the department and regional centers shall require that regional centers implement an emergency response system that

ensures that a regional center staff person will respond to a consumer, or individual acting on behalf of a consumer, within two hours of the time an emergency call is placed. This emergency response system shall be operational 24 hours per day, 365 days per year.

(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows:

(1) An average service coordinator-to-consumer ratio of 1 to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.

(2) An average service coordinator-to-consumer ratio of 1 to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.

(3) Commencing January 1, 2004, to June 30, 2007, inclusive, the following coordinator-to-consumer ratios shall apply:

(A) All consumers three years of age and younger and for consumers enrolled on the Home and Community-based Services Waiver for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.

(B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.

(C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.

(4) For purposes of paragraph (3), service coordinators may have a mixed caseload of consumers three years of age and younger, consumers enrolled on the Home and Community-based Services Waiver program for persons with developmental disabilities, and other consumers if the overall average caseload is weighted proportionately to ensure that overall regional center average service coordinator-to-consumer ratios as specified in paragraph (3) are met. For purposes of paragraph (3), in no case shall a service coordinator have an assigned caseload in excess of 84 for more than 60 days.

(d) For purposes of this section, "service coordinator" means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers' individual program plans,

securing and coordinating consumer services and supports, and providing placement and monitoring activities.

(e) In order to ensure that caseload ratios are maintained pursuant to this section, each regional center shall provide service coordinator caseload data to the department, annually for each fiscal year. The data shall be submitted in the format, including the content, prescribed by the department. Within 30 days of receipt of data submitted pursuant to this subdivision, the department shall make a summary of the data available to the public upon request. The department shall verify the accuracy of the data when conducting regional center fiscal audits. Data submitted by regional centers pursuant to this subdivision shall:

(1) Only include data on service coordinator positions as defined in subdivision (d). Regional centers shall identify the number of positions that perform service coordinator duties on less than a full-time basis. Staffing ratios reported pursuant to this subdivision shall reflect the appropriate proportionality of these staff to consumers served.

(2) Be reported separately for service coordinators whose caseload includes any of the following:

(A) Consumers who are three years of age and older and who have not moved from the developmental center to the community since April 14, 1993.

(B) Consumers who have moved from a developmental center to the community since April 14, 1993.

(C) Consumers who are younger than three years of age.

(D) Consumers enrolled in the Home and Community-based Services Waiver program.

(3) Not include positions that are vacant for more than 60 days or new positions established within 60 days of the reporting month that are still vacant.

(4) For purposes of calculating caseload ratios for consumers enrolled in the Home- and Community-based Services Waiver program, vacancies shall not be included in the calculations.

(f) The department shall provide technical assistance and require a plan of correction for any regional center that, for two consecutive reporting periods, fails to maintain service coordinator caseload ratios required by this section or otherwise demonstrates an inability to maintain appropriate staffing patterns pursuant to this section. Plans of correction shall be developed following input from the local area board, local organizations representing consumers, family members, regional center employees, including recognized labor organizations, and service providers, and other interested parties.

(g) Contracts between the department and regional center shall require the regional center to have, or contract for, all of the following areas:

(1) Criminal justice expertise to assist the regional center in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate, or parolee.

(2) Special education expertise to assist the regional center in providing advocacy and support to families seeking appropriate educational services from a school district.

(3) Family support expertise to assist the regional center in maximizing the effectiveness of support and services provided to families.

(4) Housing expertise to assist the regional center in accessing affordable housing for consumers in independent or supportive living arrangements.

(5) Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life.

(6) Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinating the regional center quality assurance efforts.

(7) Each regional center shall employ at least one consumer advocate who is a person with developmental disabilities.

(8) Other staffing arrangements related to the delivery of services that the department determines are necessary to ensure maximum cost-effectiveness and to ensure that the service needs of consumers and families are met.

(h) Any regional center proposing a staffing arrangement that substantially deviates from the requirements of this section shall request a waiver from the department. Prior to granting a waiver, the department shall require a detailed staffing proposal, including, but not limited to, how the proposed staffing arrangement will benefit consumers and families served, and shall demonstrate clear and convincing support for the proposed staffing arrangement from constituencies served and impacted, that include, but are not limited to, consumers, families, providers, advocates, and recognized labor organizations. In addition, the regional center shall submit to the department any written opposition to the proposal from organizations or individuals, including, but not limited to, consumers, families, providers, and advocates, including recognized labor organizations. The department may grant waivers to regional centers that sufficiently demonstrate that the proposed staffing arrangement is in the best interest of consumers and families served, complies with the requirements of this chapter, and does not violate any contractual requirements. A waiver shall be approved by the department for up to 12 months, at which time a regional center may submit a new request pursuant to this subdivision.

(i) The requirements of subdivisions (c), (f), and (h) shall not apply when a regional center is required to develop an expenditure plan pursuant to Section 4791, and when the expenditure plan addresses the specific impact of the budget reduction on staffing requirements and the expenditure plan is approved by the department.

(j) (1) Any contract between the department and a regional center entered into on and after January 1, 2003, shall require that all employment contracts entered into with regional center staff or contractors be available to the public for review, upon request. For purposes of this subdivision, an employment contract or portion thereof may not be deemed confidential nor unavailable for public review.

(2) Notwithstanding paragraph (1), the social security number of the contracting party may not be disclosed.

(3) The term of the employment contract between the regional center and an employee or contractor shall not exceed the term of the state's contract with the regional center.

SEC. 49. Section 4643 of the Welfare and Institutions Code is amended to read:

4643. (a) If assessment is needed, prior to July 1, 2007, the assessment shall be performed within 120 days following initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information specified in subdivision (b). On and after July 1, 2007, the assessment shall be performed within 60 days following intake and if unusual circumstances prevent the completion of assessment within 60 days following intake, this assessment period may be extended by one 30-day period with the advance written approval of the department.

(b) In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

SEC. 50. Section 4648.4 of the Welfare and Institutions Code is amended to read:

4648.4. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, rates for services listed in paragraphs (1), (2), with the exception of travel reimbursement, (3) to (8), inclusive, (10), and (11) of subdivision (b), shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent change shall be governed by subdivision (b).

(b) Notwithstanding any other provision of law or regulation, except for subdivision (a), during the 2006–07 fiscal year, no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after July 1, 2006, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2006, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization:

(1) Supported living services.
(2) Transportation, including travel reimbursement.
(3) Socialization training programs.
(4) Behavior intervention training.
(5) Community integration training programs.
(6) Community activities support services.
(7) Mobile day programs.
(8) Creative art programs.
(9) Supplemental day services program supports.
(10) Adaptive skills trainers.
(11) Independent living specialists.

SEC. 51. Section 4681.3 of the Welfare and Institutions Code is amended to read:

4681.3. (a) Notwithstanding any other provision of this article, for the 1996–97 fiscal year, the rate schedule authorized by the department in operation June 30, 1996, shall be increased based upon the amount appropriated in the Budget Act of 1996 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(b) Notwithstanding any other provision of this article, for the 1997–98 fiscal year, the rate schedule authorized by the department in operation on June 30, 1997, shall be increased based upon the amount appropriated in the Budget Act of 1997 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(c) Notwithstanding any other provision of this article, for the 1998–99 fiscal year, the rate schedule authorized by the department in operation

on June 30, 1998, shall be increased commencing July 1, 1998, based upon the amount appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(d) Notwithstanding any other provision of this article, for the 1998–99 fiscal year, the rate schedule authorized by the department in operation on December 31, 1998, shall be increased January 1, 1999, based upon the cost-of-living adjustments in the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(e) Notwithstanding any other provision of this article, for the 1999–2000 fiscal year, the rate schedule authorized by the department in operation on June 30, 1999, shall be increased July 1, 1999, based upon the amount appropriated in the Budget Act of 1999 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(f) In addition, commencing January 1, 2000, any funds available from cost-of-living adjustments in the Supplemental Security Income/State Supplementary Payment (SSI/SSP) for the 1999–2000 fiscal year shall be used to further increase the community care facility rate. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(g) Notwithstanding any other provision of law or regulation, for the 2006–07 fiscal year, the rate schedule in effect on June 30, 2006, shall be increased on July 1, 2006, by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage and the percentage shall be the same for all providers. Any subsequent increase shall be governed by Section 4681.5.

SEC. 52. Section 4681.5 of the Welfare and Institutions Code is amended to read:

4681.5. Notwithstanding any other provision of law or regulation, during the 2006–07 fiscal year, no regional center may approve any service level for a residential service provider, as defined in Section 56005 of Title 17 of the California Code of Regulations, if the approval would result in an increase in the rate to be paid to the provider that is greater than the rate that is in effect on July 1, 2006, unless the regional center demonstrates to the department that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

SEC. 53. Section 4690.5 is added to the Welfare and Institutions Code, to read:

4690.5. Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the rate for family member-provided respite services authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

SEC. 54. Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), and (e).

(b) Notwithstanding any other provision of law or regulation, during the 2006–07 fiscal year, the department may not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on July 1, 2006, if the permanent payment rate would be greater than the temporary payment rate in effect on or after July 1, 2006, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other provision of law or regulation, during the 2006–07 fiscal year, neither the department nor any regional center may approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after July 1, 2006, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other provision of law or regulation, during the 2006–07 fiscal year, the department may not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after July 1, 2006, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other provision of law or regulation, during the 2006–07 fiscal year, the department may not approve any rate

adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after July 1, 2006, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

SEC. 55. Section 4691.8 is added to the Welfare and Institutions Code, to read:

4691.8. (a) Notwithstanding any other provision of law or regulation, and to the extent funds are appropriated in the annual Budget Act for this purpose, the department may provide a rate increase for the purpose of enhancing wages for direct care staff in day programs and in work activity programs, as defined in subdivision (e) of Section 4851, and in look-alike programs, that meet any of the following criteria:

(1) Provide a majority of their services and supports in integrated community settings.

(2) Are day programs that are converting to integrated community settings.

(3) Are work activity programs that are converting to supported work programs.

(b) The department may approve a temporary rate increase for a program that is converting pursuant to paragraph (2) or (3) of subdivision (a). A program shall not be eligible for a permanent rate increase pursuant to this section unless it meets the criteria established in paragraph (1) of subdivision (a).

(c) A rate increase provided pursuant to paragraph (1) of subdivision (a) to existing programs shall be effective not more than 60 days following the adoption of the Budget Act that appropriates the necessary funding.

(d) Prior to implementation of this section, the department shall consult with stakeholders, including various provider organizations, the regional centers, and all other interested parties.

(e) The department shall provide the Legislature, by April 1, 2007, with a description of how this section has been implemented, along with the following information:

(1) The number of day programs and work activity centers receiving an enhanced rate, by regional center.

(2) The number of program conversions, by regional center.

(3) The percentage of rate increase provided to programs.

(4) The effect of the rate increase on direct care staff wages.

SEC. 56. Section 4694 is added to the Welfare and Institutions Code, to read:

4694. Commencing July 1, 2006, all regional center vendors who are qualified providers under Title XIX of the federal Social Security

Act (42 U.S.C. Sec. 1396 et seq.) and are serving individuals enrolled under the Home- and Community-based Services Waiver program for persons with developmental disabilities, shall ensure that billing information provided to regional centers identifies each individual consumer and, for each consumer, the specific dates of service, location of service, service unit, unit costs, and other information necessary to support billing under the home- and community-based services waiver. Regional centers shall also ensure that their contractual and other billing and payment arrangements with providers require the provision of any information necessary to support billing under the Home- and Community-based Services Waiver program. Resources provided to regional centers, pursuant to the Budget Act of 2006 and following budgets, to implement this provision shall be allocated to the regional centers only until implementation of a statewide electronic data system that collects the billing information necessary to support billing under the Home- and Community-based Services Waiver program.

SEC. 57. Section 4781.5 of the Welfare and Institutions Code is amended to read:

4781.5. (a) For the 2006–07 fiscal year only, a regional center may not expend any purchase of service funds for the startup of any new program unless one of the following criteria is met:

(1) The expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances.

(2) The program to be developed promotes and provides integrated supported work options for individuals or groups of no more than three consumers.

(3) The program to be developed promotes and provides integrated social, civic, volunteer, or recreational activities.

(b) Notwithstanding subdivision (a), a regional center may approve grants to current providers to engage in new or expanded employment activities that result in greater integration, conversion from sheltered to supported work environments, self-employment, and increased consumer participation in the federal Ticket to Work program.

(c) Startup contracts for programs funded under this section shall be outcome-based.

(d) The department shall develop criteria by which regional centers shall approve grants, and shall provide prior written authorization for the expenditures under this section.

(e) This section shall not apply to any of the following:

(1) The purchase of services funds allocated as part of the department's community placement plan process.

(2) Expenditures for the startup of new programs made pursuant to a contract entered into before July 1, 2002.

SEC. 58. Section 4860 of the Welfare and Institutions Code is amended to read:

4860. (a) (1) The hourly rate for supported employment services provided to consumers receiving individualized services shall be thirty-four dollars and twenty-four cents ($34.24).

(2) Job coach hours spent in travel to consumer worksites may be reimbursable for individualized services only when the job coach travels from the vendor's headquarters to the consumer's worksite or from one consumer's worksite to another, and only when the travel is one way.

(b) The hourly rate for group services shall be thirty-four dollars and twenty-four cents ($34.24), regardless of the number of consumers served in the group. Consumers in a group shall be scheduled to start and end work at the same time, unless an exception that takes into consideration the consumer's compensated work schedule is approved in advance by the regional center. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. When the number of consumers in a supported employment placement group drops to fewer than the minimum required in subdivision (r) of Section 4851 the regional center may terminate funding for the group services in that group, unless, within 90 days, the program provider adds one or more regional center, or Department of Rehabilitation funded supported employment consumers to the group.

(c) Job coaching hours for group services shall be allocated on a prorated basis between a regional center and the Department of Rehabilitation when regional center and Department of Rehabilitation consumers are served in the same group.

(d) When Section 4855 applies, fees shall be authorized for the following:

(1) A four hundred dollar ($400) fee shall be paid to the program provider upon intake of a consumer into a supported employment program. No fee shall be paid if that consumer completed a supported employment intake process with that same supported employment program within the previous 12 months.

(2) An eight hundred dollar ($800) fee shall be paid upon placement of a consumer in an integrated job, except that no fee shall be paid if that consumer is placed with another consumer or consumers assigned to the same job coach during the same hours of employment.

(3) An eight hundred dollar ($800) fee shall be paid after a 90-day retention of a consumer in a job, except that no fee shall be paid if that consumer has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment.

(e) Notwithstanding paragraph (4) of subdivision (a) of Section 4648 the regional center shall pay the supported employment program rates established by this section.

SEC. 59. Section 5675.2 of the Welfare and Institutions Code is amended to read:

5675.2. (a) There is hereby created in the State Treasury the Licensing and Certification Fund, Mental Health, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the State Department of Mental Health to fund administrative and other activities in support of the department's Licensing and Certification Program.

(b) Commencing January 1, 2005, each new and renewal application for a license to operate a mental health rehabilitation center shall be accompanied by an application or renewal fee.

(c) The amount of the fees shall be determined and collected by the State Department of Mental Health, but the total amount of the fees collected shall not exceed the actual costs of licensure and regulation of the centers, including, but not limited to, the costs of processing the application, inspection costs, and other related costs.

(d) Each license or renewal issued pursuant to this chapter shall expire 12 months from the date of issuance. Application for renewal of the license shall be accompanied by the necessary fee and shall be filed with the department at least 30 days prior to the expiration date. Failure to file a timely renewal may result in expiration of the license.

(e) License and renewal fees collected pursuant to this section shall be deposited into the Licensing and Certification Fund, Mental Health.

(f) Fees collected by the department pursuant to this section shall be expended by the department for the purpose of ensuring the health and safety of all individuals providing care and supervision by licensees and to support activities of the Licensing and Certification Program, including, but not limited to, monitoring facilities for compliance with applicable laws and regulations.

(g) The department may make additional charges to the facilities if additional visits are required to ensure that corrective action is taken by the licensee.

SEC. 60. Section 14007.2 is added to the Welfare and Institutions Code, to read:

14007.2. (a) Any individual who is otherwise eligible for Medi-Cal services, but who does not meet the documentation requirements described in subdivision (e) of Section 14011.2, shall be eligible only for the scope of services made available to aliens under subdivision (d) of Section 14007.5, and Sections 14007.65 and 14007.7.

(b) To the extent that federal financial participation is available to fund services described under subdivision (a), the department shall file all necessary state plan amendments to obtain that funding.

SEC. 61. Section 14011.2 of the Welfare and Institutions Code, as added by Section 66 of Chapter 722 of the Statutes of 1992, is amended to read:

14011.2. (a) The department shall require that each applicant for or beneficiary of Medi-Cal, including a child, who is not a recipient of aid under the provisions of Chapter 2 (commencing with Section 11200) or Chapter 3 (commencing with Section 12000) shall provide his or her social security account number, or numbers, if he or she has more than one such number.

(b) The requirement for a social security account number shall be a condition of eligibility only for the applicant who is seeking or the beneficiary who is receiving (1) full-scope medical benefits or (2), pursuant to Section 14007.5, restricted medical benefits (emergency and pregnancy-related services only), and, in either case, who declares, as required in subdivision (d), that he or she is a citizen or national of the United States, and, if he or she is not a citizen or national of the United States, that he or she has satisfactory immigration status.

(c) The requirement for a social security account number shall not be a condition of eligibility for the applicant who is seeking or the beneficiary who is receiving, pursuant to Section 14007.5, restricted medical benefits (emergency and pregnancy-related services only), and who has not made the declaration, as required in subdivision (d), that he or she is not a citizen or national of the United States, and, if he or she is not a citizen or national of the United States, that he or she does not have satisfactory immigration status.

(d) Every applicant or beneficiary or, in the case of a child, by the child's caretaker relative or legal guardian on his or her behalf shall declare, under penalty of perjury, that he or she is, or is not any of the following:

(1) A citizen of the United States.

(2) A national of the United States.

(3) An alien who has satisfactory immigration status.

(e) (1) Notwithstanding Section 50301.1 of Title 22 of the California Code of Regulations, an individual who declares to be a citizen or national of the United States in accordance with Section 1903(i)(22) of the federal Social Security Act (42 U.S.C. Sec. 1396b(i)(22)) shall present satisfactory documentary evidence of citizenship or nationality in compliance with Section 1903(x) (42 U.S.C. Sec. 1396b(x) of the federal Social Security Act). Except as otherwise provided in Section 14007.2,

no services shall be available under this chapter for an individual who fails to comply with the documentation requirements of this section.

(2) (A) The documentation required pursuant to paragraph (1) shall be provided once by each individual, as follows:

(i) During the initial application process for applicants.

(ii) During the redetermination process for existing beneficiaries.

(B) If the documentation is obtained from a beneficiary, the county shall maintain a copy of the documentation in the case file of the beneficiary, and shall not request this documentation again.

(C) If electronic verification is used, a record of the documentation shall be maintained in the case record and shall not be requested again.

(D) Once the required documentation has been obtained by the county, the beneficiary shall not be required to provide it again, even if he or she is transferring to or applying in a new county.

(3) To the extent that federal financial participation is available, the department shall provide for exceptions or alternatives to the documentation requirements imposed by this subdivision as a means of providing individuals with increased flexibility and ability to provide satisfactory documentary evidence within a reasonable period of time. These exceptions or alternatives may include, but shall not be limited to, using an expanded list of acceptable documents, relying on electronic data matches for birth certificates, relying on a sworn affidavit of citizenship with respect to an individual who can demonstrate good cause for his or her inability or other failure to provide the required documentation, and relying on other information that may be available electronically.

(4) (A) To the extent that federal financial participation is available, the department shall rely on the eligibility determinations for the CalWORKs program or the Aid to Families with Dependent Children-Foster Care program as meeting the requirements of this section.

(B) To the extent that federal financial participation is available, an individual shall be deemed to have met the documentation requirements of this subdivision if the individual has been determined to be eligible for supplemental security income pursuant to Title XVI of the Social Security Act (42 U.S.C. Sec. 1601 et seq.).

(5) The following provisions shall apply to the extent that federal financial participation is available:

(A) If an individual cooperates in the effort to obtain and present the documentation required under this subdivision, the individual shall be given as much time as is allowed by federal law and policy to present that documentation.

(B) During the time period described in subparagraph (A), an applicant shall receive the scope of Medi-Cal benefits for which the applicant is otherwise eligible.

(6) To the extent that federal financial participation is available, the county shall do all of the following to assist an individual in obtaining and presenting the documentation required under this subdivision:

(A) For an applicant who does not present the required documentation at the time of application, the county, during the time period described in subparagraph (A) of paragraph (5), shall assist the applicant in obtaining that documentation.

(B) For a current beneficiary who has not yet documented his or her citizenship, the county shall do the following:

(i) If, at the time of annual redetermination, the beneficiary returns the annual redetermination form and, but for the failure to present the required documentation, continued eligibility could be established, the county shall do the following:

(I) Review county eligibility files and records, and the Medi-Cal Eligibility Data System, to access those documents. This review shall include a review of any CalWORKs or food stamp files that may exist for the beneficiary.

(II) Attempt to reach the beneficiary by telephone to advise the beneficiary as to the need to obtain and present the required documentation.

(III) If the beneficiary fails to respond to the telephone contact or present the required documents, send a second form to the beneficiary that highlights the documentation being requested and informs the beneficiary to contact the county. The form shall be written in a simple, clear, consumer-friendly manner, and shall explain why the documentation is necessary.

(IV) If the beneficiary fails to contact the county, the county shall make another attempt to reach the beneficiary by telephone to advise the beneficiary of the need to obtain and present the required documentation.

(ii) Document in the case file any efforts made to contact and advise the beneficiary as to the need to obtain and present the required documentation.

(C) If a beneficiary fails to present the required documentation after the process required under clause (i), the county shall send a 10-day notice of action to indicate that the beneficiary's benefits are reduced to those made available under Section 14007.2.

(7) (A) Any benefits provided in accordance with subparagraph (B) of paragraph (5) shall terminate if any of the following occurs:

(i) The individual does not obtain and present the required documentation within the time period provided in subparagraph (A) of paragraph (5).

(ii) The documentation is received by the county and the county has made a final determination of eligibility.

(B) The termination of Medi-Cal benefits under this paragraph shall occur without the necessity of further review or determination by the department. This shall not affect an individual's right to a hearing with respect to the denial of the application or termination of eligibility resulting from the annual eligibility redetermination.

(8) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this subdivision by means of an all county letter or similar instruction without taking regulatory action. Within three years from the date that this subdivision becomes effective, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(9) The department shall notify and consult with advocates, providers, counties, and health plans in implementing, interpreting, or making specific this subdivision.

(10) The department shall file all necessary state plan amendments to implement the requirements of this subdivision. Upon filing any state plan amendment, the department shall provide the appropriate fiscal committees of the Legislature with a copy of the state plan amendment.

(11) If any part of this subdivision is in conflict with or does not comply with federal law, the subdivision shall be implemented only to the extent that federal law permits. Any part that is in conflict with or does not comply with federal law shall be severable from the remaining portions of this subdivision.

SEC. 62. Section 14043.46 of the Welfare and Institutions Code is amended to read:

14043.46. (a) Notwithstanding any other provision of law, on the effective date of the act adding this section, the department may implement a one-year moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area.

(b) The moratorium shall not apply to the following:

(1) Programs of All-Inclusive Care for the Elderly (PACE) established pursuant to Chapter 8.75 (commencing with Section 14590).

(2) An organization that currently holds a designation as a federally qualified health center as defined in Section 1396d(*l*)(2) of Title 42 of the United States Code.

(3) An organization that currently holds a designation as a federally qualified rural health clinic as defined in Section 1396d(*l*)(1) of Title 42 of the United States Code.

(4) An applicant with the physical location of the center in an unserved area, which is defined as a county having no licensed and certified adult day health care center within its geographic boundary.

(5) Commencing May 1, 2006, an applicant for certification that meets all of the following:

(A) Is serving persons discharged into community housing from a nursing facility operated by the City and County of San Francisco.

(B) Has submitted, after December 31, 2005, but prior to February 1, 2006, an application for certification that has not been denied.

(C) Meets all criteria for certification imposed under this article and is licensed as an adult day health care center pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

(6) An applicant that is requesting expansion or relocation, or both, that has been Medi-Cal certified as an adult day health care center for at least four years, is expanding or relocating within the same county, and that meets one of the following population-based criteria:

(A) The county is ranked number one or two for having the highest ratio of persons over 65 years of age receiving Medi-Cal benefits.

(B) The county is ranked number one or two for having the highest ratio of persons over 85 years of age residing in the county.

(C) The county is ranked number one or two for having the greatest ratio of persons over 65 years of age living in poverty.

(7) An applicant for certification that is currently licensed and located in a county with a population that exceeds 9,000,000 and meets the following criteria:

(A) The applicant has identified a special population of regional center consumers whose individual program plan calls for the specialized health and social services that are uniquely provided within the adult day health care center, in order to prevent deterioration of the special population's health status.

(B) The referring regional center submits a letter to the Director of Health Services supporting the applicant for certification as an adult day health care provider for this special population.

(C) The applicant is currently providing services to the special population as a vendor of the referring regional center.

(D) The participants in the center are clients of the referring regional center and are not residing in a health facility licensed pursuant to subdivision (c), (d), (g), (h), or (k) of Section 1250 of the Health and Safety Code.

(c) The moratorium shall not prohibit the department from approving a change of ownership, relocation, or increase in capacity for an adult day health care center if the following conditions are met:

(1) For an application to change ownership, the adult day health care center meets all of the following conditions:

(A) Has been licensed and certified prior to the effective date of this section.

(B) Has a license in good standing.

(C) Has a record of substantial compliance with certification laws and regulations.

(D) Has met all requirements for the change application.

(2) For an application to relocate an existing facility, the relocation center must meet all of the conditions of paragraph (1) and both of the following conditions:

(A) Must be located in the same county as the existing licensed center.

(B) Must be licensed for the same capacity as the existing licensed center, unless the relocation center is located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(3) For an application to increase the capacity of an existing facility, the center must meet all of the conditions of paragraph (1) and must be located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(d) Following the first 180 days of the moratorium period, the department may make exceptions to the moratorium for new adult day health care centers that are located in underserved areas if the center's application was on file with the department on or before the effective date of the act adding this section. In order to apply for this exemption, an applicant or licensee must meet all of the following criteria:

(1) The applicant has control of a facility, either by ownership or lease agreement, that will house the adult day health care center, has provided to the department all necessary documents and fees, and has completed and submitted all required fingerprinting forms to the department.

(2) The physical location of the applicant's or licensee's adult day health care center is in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(e) During the period of the moratorium, a licensee or applicant that meets the criteria for an exemption as defined in subdivision (d) may submit a written request for an exemption to the director.

(f) If the director determines that a new adult day health care licensee or applicant meets the exemption criteria, the director may certify the licensee or applicant, once licensed, for participation in the Medi-Cal program.

(g) The director may extend this moratorium, if necessary, to coincide with the implementation date of the adult day health care waiver.

(h) The authority granted in this section shall not be interpreted as a limitation on the authority granted to the department in any other section.

SEC. 63. Section 14067.3 is added to the Welfare and Institutions Code, to read:

14067.3. (a) (1) The department may maintain an allocation program for the management and funding of county outreach and enrollment plans to enroll and retain eligible children in the Medi-Cal program and the Healthy Families Program.

(2) Notwithstanding any other provision of law, and in a manner that the director shall provide, the department may allocate an amount to fund county outreach and enrollment plans identified in this section.

(b) (1) The sum of three million dollars ($3,000,000) in the 2006–07 fiscal year, and thereafter adjusted proportionately on a pro rata basis contingent upon the annual appropriation, but not less than two million dollars ($2,000,000), shall be set aside, from the annual allocation for purposes of this section, for counties identified in subdivision (d).

(2) Notwithstanding paragraph (1), the total of all county allocations made pursuant to this section shall not exceed the annual appropriation for the implementation of this section.

(c) The director shall make allocations to not more than 20 counties that have the highest number of children who appear to be eligible for the Medi-Cal program or the Healthy Families Program, as determined by the director, but who are not currently enrolled in either program, and the highest number of Medi-Cal program and Healthy Families Program cases for children. This number shall be weighted to emphasize those who appear eligible, but are not currently enrolled in the programs.

(d) With funds set aside under paragraph (1) of subdivision (b), the director shall make allocations to those counties that have an existing infrastructure for outreach, enrollment, retention, and utilization, and that can demonstrate they have well established and documented county coalitions for children's coverage with organizations such as community-based organizations, schools, clinics, labor organizations, and other safety net providers in place for at least 12 months.

(e) (1) To obtain an allocation authorized under this section, a county shall submit an allocation plan, which shall include an outreach and enrollment plan, as outlined in paragraph (2). The director shall establish the procedures and format for submission to the department of all county allocation plans.

(2) The following shall constitute the minimum components required of a county outreach and enrollment plan:

(A) An active collaboration with a wide range of organizations, such as community-based organizations, schools, clinics, labor organizations, and other safety net providers.

(B) A streamlined application assistance process.

(C) Establishment of an oversight, performance management, and review program to ensure that the outreach and enrollment plan submitted by the county is properly implemented and administered.

(D) A description of each of the following:

(i) The amount of the current funding and funding source for application, enrollment, retention, and utilization activities.

(ii) The current application, enrollment, retention, and utilization activities.

(iii) How the allocation funds awarded under this section will be used to supplement and not supplant existing application, enrollment, retention, and utilization activities.

(E) A detailed proposed budget of all expenditures for the relevant fiscal year or years for the county's outreach and enrollment plan activities, expenses, services, materials, and support.

(f) Counties receiving an allocation under this section shall provide reports to the department, as determined by the department, on the progress made in achieving the objectives of the allocation plan.

(g) (1) The funds allocated under this section shall be used only for outreach, enrollment, retention, and utilization. The funds allocated under this section may supplement, but shall not supplant, existing local, state, and foundation funding of county outreach, enrollment, retention, and utilization activities. Notwithstanding Section 10744, the department may recoup or withhold all or part of a county's allocation for failure to comply with the standards set forth in the county's outreach and enrollment plan upon which the allocation was based.

(2) Notwithstanding any other provision in this section, any acquisitions made with funds allocated under this section shall be made in compliance with federal law.

(h) Reimbursements for costs incurred under the allocation plan authorized under this section shall be made in arrears and in a manner as provided by the director. The allocations may be used only to fund activities provided in each of the designated fiscal years and in

accordance with the county's approved outreach and enrollment plan and budget for the fiscal year.

(i) As authorized by the director, on a case by case basis, funds allocated pursuant to this section may be used to support automated enrollment of children in the Medi-Cal program or the Healthy Families Program. Funds under this subdivision shall further the goal of increasing the enrollment of uninsured children, as well as increasing the retention of children, in the Medi-Cal program and Healthy Families Program in the same fiscal year for which the funds are allocated.

(j) The department and the Managed Risk Medical Insurance Board shall seek approval of any amendments to the state plan necessary to implement this section for purposes of funding under Titles XIX and XXI of the federal Social Security Act (42 U.S.C. Secs. 1396 et seq. and 1397aa et seq., respectively). This section shall be implemented only when federal approvals have been obtained and only to the extent federal financial participation is available.

(k) The department shall reimburse a county pursuant to this section in lieu of commencing a cooperative agreement or contract with a county for the operation of an outreach program.

(*l*) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all county letters, provider bulletins, or similar instructions.

(m) For the purposes of this section, "county outreach and enrollment plan" means a county outreach program designed to identify and enroll children who are eligible either for the Healthy Families Program or the Medi-Cal program, but are not currently enrolled in either program, and to facilitate the retention of eligible children currently enrolled in these programs.

SEC. 64. Section 14068 is added to the Welfare and Institutions Code, to read:

14068. In conducting outreach activities for the enrollment of special needs populations into a Medi-Cal managed care program, the department and its contractors, as deemed applicable by the department, shall work with state, local, and regional organizations with the ability to target low-income seniors and individuals with disabilities in the communities where they live. This shall include, but not be limited to, all applicable state departments that serve these individuals, regional centers, seniors' organizations, local health consumer centers, and other consumer-focused organizations that are engaging in providing assistance to this population.

SEC. 65. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed-upon price escalators, as defined in that section. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, including supporting utilization data from the department's prescription drug paid claims tapes within 30 days of receipt of the Centers for Medicare and Medicaid Services' file of manufacturer rebate information. In lieu of paying the entire invoiced amount, a manufacturer may contest the invoiced amount pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations by mailing a notice, that shall set forth its grounds for contesting the invoiced amount, to the department within 38 days of the department's mailing of the state invoice and supporting utilization data. For purposes of state accounting practices only, the contested balance shall not be considered an accounts receivable amount until final resolution of the dispute pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations that results in a finding of an underpayment by the manufacturer. Manufacturers may request, and the department shall timely provide, at cost, Medi-Cal provider level drug utilization data, and other Medi-Cal utilization data necessary to resolve a contested department-invoiced rebate amount.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) Utilization data used to determine an equalization payment amount shall exclude data from both of the following:

(A) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(B) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(4) Utilization data used to determine an equalization payment amount shall include data from all programs that qualify for federal drug rebates pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or that otherwise qualify for federal funds under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 30 business days of a request for consultation, and shall disclose any

associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews.

(k) (1) Manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments.

(2) For state rebate payments, manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(3) Following final resolution of any dispute pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to subdivisions (m) and (n), and any overpayment, together with interest at the rate calculated pursuant to subdivisions (m) and (n), shall be credited by the department against future rebates due.

(*l*) Interest pursuant to subdivision (k) shall begin accruing 38 calendar days from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(m) Except as specified in subdivision (n), interest rates and calculations pursuant to subdivision (k) for medicaid rebates and state rebates shall be identical and shall be determined by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(n) If the date of mailing of a state rebate payment is 69 days or more from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer, the interest rate and calculations pursuant to subdivision (k) shall be as specified in subdivision (m), however the interest rate shall be increased by 10 percentage points. This subdivision shall apply to payments for amounts invoiced for any quarters that begin on or after the effective date of the act that added this subdivision.

(o) If the rebate payment is not received, the department shall send overdue notices to the manufacturer at 38, 68, and 98 days after the date of mailing of the invoice, and supporting utilization data. If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, the manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. For all other manufacturers, if the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, all of the drug products of those manufacturers shall be made available only through prior authorization effective 270 days after the date of mailing of the invoice, including utilization data sent to manufacturers.

(p) If the manufacturer provides payment or evidence of payment to the department at least 40 days prior to the proposed date the drug is to be made available only through prior authorization pursuant to subdivision (o), the department shall terminate its actions to place the manufacturers' drug products on prior authorization.

(q) The department shall direct the state's fiscal intermediary to remove prior authorization requirements imposed pursuant to subdivision (o) and notify providers within 60 days after payment by the manufacturer of the rebate, including interest. If a contract was in place at the time the manufacturers' drugs were placed on prior authorization, removal of prior authorization requirements shall be contingent upon good faith negotiations and a signed contract with the department.

(r) A beneficiary may obtain drugs placed on prior authorization pursuant to subdivision (o) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the drug when its manufacturer is placed on prior authorization status. Additionally, the department shall have received a claim for the

drug with a date of service that is within 100 days prior to the date the manufacturer was placed on prior authorization.

(s) A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the drug in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same drug.

(t) Drugs covered pursuant to Sections 14105.43 and 14133.2 shall not be subject to prior authorization pursuant to subdivision (o), and any other drug may be exempted from prior authorization by the department if the director determines that an essential need exists for that drug, and there are no other drugs currently available without prior authorization that meet that need.

(u) It is the intent of the Legislature in enacting subdivisions (k) to (t), inclusive, that the department and manufacturers shall cooperate and make every effort to resolve rebate payment disputes within 90 days of notification by the manufacturer to the department of a dispute in the calculation of rebate payments.

SEC. 66. Section 14105.48 of the Welfare and Institutions Code is amended to read:

14105.48. (a) The department shall establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment as defined in Section 51160 of Title 22 of the California Code of Regulations and the list shall be published in provider manuals. The list shall specify utilization controls to be applied to each type of durable medical equipment.

(b) Reimbursement for durable medical equipment, except wheelchairs, wheelchair accessories, and speech-generating devices and related accessories, shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(c) Reimbursement for wheelchairs, wheelchair accessories, and speech-generating devices and related accessories shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) an amount that does not exceed 100 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the

contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(d) Reimbursement for all durable medical equipment billed to the Medi-Cal program utilizing codes with no specified maximum allowable rate shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department, (3) the actual acquisition cost plus a markup to be established by the department, (4) the manufacturer's suggested retail purchase price on June 1, 2006, and documented by a printed catalog or a hard copy of an electronic catalog page showing the price on that date, reduced by a percentage discount not to exceed 20 percent, or not to exceed 15 percent for wheelchairs and wheelchair accessories if the provider employs or contracts with a qualified rehabilitation professional, as defined in paragraph (3) of subdivision (c) of Section 14105.485, or (5) a price established through targeted product-specific cost containment provisions developed with providers.

(e) Reimbursement for all durable medical equipment supplies and accessories billed to the Medi-Cal program shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) the acquisition cost plus a 23 percent markup.

(f) Commencing January 1, 2007, reimbursement for oxygen delivery systems and oxygen contents shall utilize national HCPCS codes, and shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or a similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3, plus a percentage markup to be established by the department.

(g) Within six months of the effective date of the act that added this subdivision, the department shall review utilization of services and equipment resulting from the changes to this section made by that act, and shall assess whether the changes are contributing to inappropriate use of those services or equipment. If the department's review finds an increase in inappropriate use of those services or equipment, the Department of Finance shall notify the Joint Legislative Budget Committee of the State Department of Health Services' findings and recommended changes to ensure program integrity.

(h) Any regulation in Division 3 of Title 22 of the California Code of Regulations that contains provisions for reimbursement rates for

durable medical equipment shall be amended or repealed effective for dates of service on or after the date of the act adding this section.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, actions under this section shall not be subject to the Administrative Procedure Act or to the review and approval of the Office of Administrative Law.

(j) The department shall consult with interested parties and appropriate stakeholders in implementing this section with respect to all of the following:

(1) Notifying the provider representatives of the proposed change.

(2) Scheduling at least one meeting to discuss the change.

(3) Allowing for written input regarding the change.

(4) Providing advance notice on the implementation and effective date of the change.

(k) The department may require providers of durable medical equipment to appeal Medicare denials for dually eligible beneficiaries as a condition of Medi-Cal payment.

SEC. 67. Section 14105.49 of the Welfare and Institutions Code is amended to read:

14105.49. (a) (1) The department shall establish a list of Healthcare Common Procedure Coding System (HCPCS) codes billable to the Medi-Cal program and reimbursement rates, subject to Section 51319 of Title 22 of the California Code of Regulations, hearing aids, and the list shall be published in the Medi-Cal Provider Manual.

(2) The department may implement this section by provider manual or bulletin. Notwithstanding the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code), actions of the department under this section shall not be subject to the rulemaking provisions of the Administrative Procedure Act or to the review and approval of the Office of Administrative Law.

(b) The maximum reimbursement rate for hearing aids shall not exceed the lesser of the following:

(1) The maximum allowable amount established by the department.

(2) The one-unit wholesale cost, plus a markup determined by the department.

(3) The billed amount.

(4) The rate established by the department's contracting program.

(c) The maximum reimbursement rate for hearing aid supplies and accessories shall not exceed the lesser of the following:

(1) The retail price.

(2) The wholesale cost, plus a markup determined by the department.

(3) The billed amount.

(4) The rate established by the department's contracting program.

(d) The maximum reimbursement rate for molds or inserts shall not exceed the lesser of the following:

(1) The maximum amount allowable established by the department.

(2) The billed amount.

(3) The rate established by the department's contracting program.

(e) The maximum reimbursement for repairs, subsequent to the guarantee period, shall not exceed the lesser of the following:

(1) The invoice cost plus a markup determined by the department.

(2) The billed amount.

(3) The rate established by the department's contracting program.

SEC. 68. Section 14133.07 is added to the Welfare and Institutions Code, to read:

14133.07. (a) Prior authorization for podiatric services provided on an outpatient or inpatient basis shall not be required when all of the following conditions are met:

(1) The services are provided by a doctor of podiatric medicine acting within the scope of his or her practice.

(2) The services are related to trauma, infection management, pain control, wound management, diabetic foot care, or limb salvage.

(3) The services are medically necessary.

(4) An urgent or emergency need for services exists at the time the service is provided.

(5) The patient was referred to the doctor of podiatric medicine by a physician.

(6) Prior authorization is not required for a physician providing the same service.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all county letters, provider bulletins, or similar instructions.

(c) This section shall become operative October 1, 2006.

SEC. 69. Section 14154 of the Welfare and Institutions Code is amended to read:

14154. (a) The department shall establish and maintain a plan whereby costs for county administration of the determination of eligibility for benefits under this chapter will be effectively controlled within the amounts annually appropriated for that administration. The plan, to be known as the County Administrative Cost Control Plan, shall establish standards and performance criteria, including workload, productivity, and support services standards, to which counties shall adhere. The plan shall include standards for controlling eligibility determination costs that are incurred by performing eligibility determinations at county hospitals,

or that are incurred due to the outstationing of any other eligibility function. Except as provided in Section 14154.15, reimbursement to a county for outstationed eligibility functions shall be based solely on productivity standards applied to that county's welfare department office. The plan shall be part of a single state plan, jointly developed by the department and the State Department of Social Services, in conjunction with the counties, for administrative cost control for the California Work Opportunity and Responsibility to Kids (CalWORKs), Food Stamp, and Medical Assistance (Medi-Cal) programs. Allocations shall be made to each county and shall be limited by and determined based upon the County Administrative Cost Control Plan. In administering the plan to control county administrative costs, the department shall not allocate state funds to cover county cost overruns that result from county failure to meet requirements of the plan. The department and the State Department of Social Services shall budget, administer, and allocate state funds for county administration in a uniform and consistent manner.

(b) Nothing in this section, Section 15204.5, or Section 18906 shall be construed so as to limit the administrative or budgetary responsibilities of the department in a manner that would violate Section 14100.1, and thereby jeopardize federal financial participation under the Medi-Cal program.

(c) The Legislature finds and declares that in order for counties to do the work that is expected of them, it is necessary that they receive adequate funding, including adjustments for reasonable annual cost-of-doing-business increases. The Legislature further finds and declares that linking appropriate funding for county Medi-Cal administrative operations, including annual cost-of-doing-business adjustments, with performance standards will give counties the incentive to meet the performance standards and enable them to continue to do the work they do on behalf of the state. It is therefore the Legislature's intent to provide appropriate funding to the counties for the effective administration of the Medi-Cal program at the local level to ensure that counties can reasonably meet the purposes of the performance measures as contained in this section.

(d) The department is responsible for the Medi-Cal program in accordance with state and federal law. A county shall determine Medi-Cal eligibility in accordance with state and federal law. If in the course of its duties the department becomes aware of accuracy problems in any county, the department shall, within available resources, provide training and technical assistance as appropriate. Nothing in this section shall be interpreted to eliminate any remedy otherwise available to the department to enforce accurate county administration of the program. In

administering the Medi-Cal eligibility process, each county shall meet the following performance standards each fiscal year:

(1) Complete eligibility determinations as follows:

(A) Ninety percent of the general applications without applicant errors and are complete shall be completed within 45 days.

(B) Ninety percent of the applications for Medi-Cal based on disability shall be completed within 90 days, excluding delays by the state.

(2) (A) The department shall establish best-practice guidelines for expedited enrollment of newborns into the Medi-Cal program, preferably with the goal of enrolling newborns within 10 days after the county is informed of the birth. The department, in consultation with counties and other stakeholders, shall work to develop a process for expediting enrollment for all newborns, including those born to mothers receiving CalWORKs assistance.

(B) Upon the development and implementation of the best-practice guidelines and expedited processes, the department and the counties may develop an expedited enrollment timeframe for newborns that is separate from the standards for all other applications, to the extent that the timeframe is consistent with these guidelines and processes.

(C) Notwithstanding the rulemaking procedures of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of all-county letters or similar instructions, without further regulatory action.

(3) Perform timely annual redeterminations, as follows:

(A) Ninety percent of the annual redetermination forms shall be mailed to the recipient by the anniversary date.

(B) Ninety percent of the annual redeterminations shall be completed within 60 days of the recipient's annual redetermination date for those redeterminations based on forms that are complete and have been returned to the county by the recipient in a timely manner.

(C) Ninety percent of those annual redeterminations where the redetermination form has not been returned to the county by the recipient shall be completed by sending a notice of action to the recipient within 45 days after the date the form was due to the county.

(D) When a child is determined by the county to change from no share of cost to a share of cost and the child meets the eligibility criteria for the Healthy Families Program established under Section 12693.98 of the Insurance Code, the child shall be placed in the Medi-Cal-to-Healthy Families Bridge Benefits Program, and these cases shall be processed as follows:

(i) Ninety percent of the families of these children shall be sent a notice informing them of the Healthy Families Program within five working days from the determination of a share of cost.

(ii) Ninety percent of all annual redetermination forms for these children shall be sent to the Healthy Families Program within five working days from the determination of a share of cost if the parent has given consent to send this information to the Healthy Families Program.

(iii) Ninety percent of the families of these children placed in the Medi-Cal-to-Healthy Families Bridge Benefits Program who have not consented to sending the child's annual redetermination form to the Healthy Families Program shall be sent a request, within five working days of the determination of a share of cost, to consent to send the information to the Healthy Families Program.

(E) Subparagraph (D) shall not be implemented until 60 days after the Medi-Cal and Joint Medi-Cal and Healthy Families applications and the Medi-Cal redetermination forms are revised to allow the parent of a child to consent to forward the child's information to the Healthy Families Program.

(e) The department shall develop procedures in collaboration with the counties and stakeholder groups for determining county review cycles, sampling methodology and procedures, and data reporting.

(f) On January 1 of each year, each applicable county, as determined by the department, shall report to the department on the county's results in meeting the performance standards specified in this section. The report shall be subject to verification by the department. County reports shall be provided to the public upon written request.

(g) If the department finds that a county is not in compliance with one or more of the standards set forth in this section, the county shall, within 60 days, submit a corrective action plan to the department for approval. The corrective action plan shall, at a minimum, include steps that the county shall take to improve its performance on the standard of standards with which the county is out of compliance. The plan shall establish interim benchmarks for improvement that shall be expected to be met by the county in order to avoid a sanction.

(h) If a county does not meet the performance standards for completing eligibility determinations and redeterminations as specified in this section, the department may, at its sole discretion, reduce the allocation of funds to that county in the following year by 2 percent. Any funds so reduced may be restored by the department if, in the determination of the department, sufficient improvement has been made by the county in meeting the performance standards during the year for which the funds were reduced. If the county continues not to meet the performance standards, the department may reduce the allocation by an additional 2

percent for each year thereafter in which sufficient improvement has not been made to meet the performance standards.

(i) The department shall develop procedures, in collaboration with the counties and stakeholders, for developing instructions for the performance standards established under subparagraph (D) of paragraph (3) of subdivision (c), no later than September 1, 2005.

(j) No later than September 1, 2005, the department shall issue a revised annual redetermination form to allow a parent to indicate parental consent to forward the annual redetermination form to the Healthy Families Program if the child is determined to have a share of cost.

(k) The department, in coordination with the Managed Risk Medical Insurance Board, shall streamline the method of providing the Healthy Families Program with information necessary to determine Healthy Families eligibility for a child who is receiving services under the Medi-Cal-to-Healthy Families Bridge Benefits Program.

SEC. 70. Section 14572 of the Welfare and Institutions Code is amended to read:

14572. (a) No Medi-Cal reimbursement shall be made for a service rendered by an adult day health care provider that does not have a license as an adult day health care center or that does not have currently effective Medi-Cal certification pursuant to this chapter.

(b) Notwithstanding subdivision (a), Medi-Cal certification shall be granted as of the date of licensure with respect to, and reimbursement shall be made for, a service rendered on or after that date if the provider meets all of the following requirements:

(1) Is exempt from the moratorium imposed on the certification and enrollment of new adult day health care centers pursuant to paragraph (5) of subdivision (b) of Section 14043.46.

(2) Meets all certification requirements for adult day health care centers, and is enrolled as a Medi-Cal provider.

(3) Provides services in compliance with the requirements of this chapter as of the date the center began providing services to beneficiaries.

SEC. 71. Section 14592 of the Welfare and Institutions Code is amended to read:

14592. (a) The director may contract with up to ten demonstration projects to develop risk-based long-term care pilot programs modeled upon On Lok Senior Health Services in San Francisco. The department shall seek necessary federal waivers for each demonstration site pursuant to Section 1115 of the Social Security Act (42 U.S.C.A. Sec. 1315). The director shall not enter into contracts with any demonstration program unless necessary federal waivers are obtained.

(b) The demonstration sites shall be public or private nonprofit organizations providing or having the capacity to provide, as determined

by the director, comprehensive health care services on a risk-based capitated basis to frail elderly persons certifiable for institutional care. Implementation of this section shall be in accordance with Section 4118(g)(1)(2) of the federal Omnibus Budget Reconciliation Act of 1987.

(c) The department shall establish capitation rates paid to each PACE organization at no less than 90 percent of the fee-for-service equivalent cost, including the department's cost of administration, that the department estimates would be payable for all services covered under the PACE organization contract if all those services were to be furnished to Medi-Cal beneficiaries under the fee-for-service Medi-Cal program provided for pursuant to Chapter 7 (commencing with Section 14000). This subdivision shall be implemented only to the extent that federal financial participation is available.

SEC. 72. Section 16809 of the Welfare and Institutions Code, as amended by Section 30 of Chapter 80 of the Statutes of 2005, is amended to read:

16809. (a) (1) The board of supervisors of a county that contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The County Medical Services Program shall have responsibilities for specified health services to county residents certified eligible for those services by the county.

(2) If the County Medical Services Program Governing Board contracts with the department to administer the County Medical Services Program, that contract shall include, but need not be limited to, all of the following:

(A) Provisions for the payment to participating counties for making eligibility determinations based on the formula used by the County Medical Services Program for the 1993–94 fiscal year.

(B) Provisions for payment of expenses of the County Medical Services Program Governing Board.

(C) Provisions relating to the flow of funds from counties' vehicle license fees, sales taxes, and participation fees and the procedures to be followed if a county does not pay those funds to the program.

(D) Those provisions, as applicable, contained in the 1993–94 fiscal year contract with counties under the County Medical Services Program.

(3) The contract between the department and the County Medical Services Program Governing Board shall require that the County Medical Services Program Governing Board shall reimburse three million five hundred thousand dollars ($3,500,000) for the state costs of providing

administrative support to the County Medical Services Program. The department may decline to implement decisions made by the governing board that would require a greater level of administrative support than that for the 1993–94 fiscal year. The department may implement decisions upon compensation by the governing board to cover that increased level of support.

(4) The contract between the department and the County Medical Services Program Governing Board may include provisions for the administration of a pharmacy benefit program and, pursuant to these provisions, the department may negotiate, on behalf of the County Medical Services Program, rebates from manufacturers that agree to participate. The governing board shall reimburse the department for staff costs associated with this paragraph.

(5) The department shall administer the County Medical Services Program pursuant to the provisions of the 1993–94 fiscal year contract with the counties and regulations relating to the administration of the program until the County Medical Services Program Governing Board executes a contract for the administration of the County Medical Services Program and adopts regulations for that purpose.

(6) The department shall not be liable for any costs related to decisions of the County Medical Services Program Governing Board that are in excess of those set forth in the contract between the department and the County Medical Services Program Governing Board.

(b) Each county intending to participate in the County Medical Services Program pursuant to this section shall submit to the Governing Board of the County Medical Services Program a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year in which the county will participate in the County Medical Services Program.

(c) A county participating in the County Medical Services Program pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) (1) The County Medical Services Program Account is established in the County Health Services Fund. The County Medical Services Program Account is continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years. The following amounts may be deposited in the account:

(A) Any interest earned upon money deposited in the account.

(B) Moneys provided by participating counties or appropriated by the Legislature to the account.

(C) Moneys loaned pursuant to subdivision (q).

(2) The methods and procedures used to deposit funds into the account shall be consistent with the methods used by the program during the 1993–94 fiscal year.

(e) Moneys in the program account shall be used by the department, pursuant to its contract with the County Medical Services Program Governing Board, to pay for health care services provided to the persons meeting the eligibility criteria established pursuant to subdivision (j) and to pay for the expense of the governing board as set forth in the contract between the board and the department. In addition, moneys in this account may be used to reimburse the department for state costs pursuant to paragraph (3) of subdivision (a).

(f) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, County Medical Services Program Governing Board expenses, or for expenditures to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) A separate County Medical Services Program Reserve Account is established in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the budget for health services for all counties electing to participate in the County Medical Services Program under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees as determined by the County Medical Services Program Governing Board pursuant to subdivision (i). Nothing in this section shall preclude the CMSP Governing Board from establishing other reserves.

(h) Moneys in the program account and the reserve account, except for moneys provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (q) shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay participation fees as established by the County Medical Services Program Governing Board and their jurisdictional risk amount in a method that is consistent with that established in the 1993–94 fiscal year.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the CMSP Governing Board.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) For the 1991–92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs in excess of the amounts deposited in the reserve fund.

(B) (i) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus the additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years. In the 1994–95 fiscal year, the amount of the state risk shall be twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, in addition to the cost of administrative support pursuant to paragraph (3) of subdivision (a).

(ii) For the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years, the state shall not be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus any additional cost increases for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

(C) The CMSP Governing Board, after consultation with the department, shall establish uniform eligibility criteria and benefits for the County Medical Services Program.

(2) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,150
Amador	620,264
Butte	5,950,593
Calaveras	913,959
Colusa	799,988
Del Norte	781,358
El Dorado	3,535,288
Glenn	787,933
Humboldt	6,883,182
Imperial	6,394,422
Inyo	1,100,257
Kings	2,832,833
Lassen	687,113
Madera	2,882,147
Marin	7,725,909
Mariposa	435,062
Modoc	469,034
Mono	369,309
Napa	3,062,967
Nevada	1,860,793
Plumas	905,192
San Benito	1,086,011
Shasta	5,361,013
Sierra	135,888
Siskiyou	1,372,034
Solano	6,871,127
Sonoma	13,183,359

Sutter	2,996,118
Tehama	1,912,299
Trinity	611,497
Tuolumne	1,455,320
Yuba	2,395,580

(3) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in paragraph (A) plus the amount determined pursuant to paragraph (B), minus the amount specified by the County Medical Services Program Governing Board as participation fees.

(A)

Jurisdiction	Amount
Lake	$1,022,963
Mendocino	1,654,999
Merced	2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the CMSP Governing Board before a county is permitted to participate in the County Medical Services Program.

(4) For the 1994–95 and 1995–96 fiscal years, the specific amounts and method of apportioning risk to each participating county may be adjusted by the CMSP Governing Board.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. Contracts of the department pursuant to this section shall have no force or effect unless they are approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) Third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3 may be pursued.

(n) Under the program provided for in this section, the department may reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if the California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

(o) Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(p) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department may collectively pursue identified options for the realization of program savings.

(q) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(r) Regulations adopted by the department pursuant to this section shall remain operative and shall be used to operate the County Medical Services Program until a contract with the County Medical Services Program Governing Board is executed and regulations, as appropriate, are adopted by the County Medical Services Program Governing Board. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, those regulations adopted under the County Medical Services Program shall become inoperative until January 1, 1998, except those regulations that the department, in consultation with the County Medical Services Program Governing Board, determines are needed to continue to administer the County Medical Services Program. The department shall notify the Office of Administrative Law as to those regulations the department will continue to use in the implementation of the County Medical Services Program.

(s) Moneys appropriated from the General Fund to meet the state risk as set forth in subparagraph (B) of paragraph (1) of subdivision (j) shall not be available for those counties electing to disenroll from the County Medical Services Program.

(t) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2008, deletes or extends that date.

SEC. 73. Section 16809 of the Welfare and Institutions Code, as amended by Section 31 of Chapter 80 of the Statutes of 2005, is amended to read:

16809. (a) The board of supervisors of a county that contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county.

(b) Each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish the County Medical Services Program Account in the County Health Services Fund. The County Medical Services Program Account is continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years. The following amounts may be deposited in the account:

(1) Any interest earned upon money deposited in the account.

(2) Moneys provided by participating counties or appropriated by the Legislature to the account.

(3) Moneys loaned pursuant to subdivision (q).

(e) Moneys in the program account shall be used by the department to pay for health care services provided to the persons meeting the eligibility criteria established pursuant to subdivision (j).

(f) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, at the end of the 1982–83

fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, or for expenditures to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the budget for health services for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees required by Section 16809.3.

(h) Moneys in the program account and the reserve account, except for moneys provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (q), shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay by the 15th of each month the agreed-upon contract amount. In the event a county does not make the agreed-upon monthly payment, the department may terminate the county's participation in the program.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the Small County Advisory Committee.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) For the 1991–92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs in excess of the amounts deposited in the reserve fund.

(B) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600 according to the table specified in paragraph (2) to the County Medical Services Program, plus additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year.

(C) As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The County Medical Services Program Governing Board may revise these eligibility criteria and benefits or alter rates of payment in order to assure that expenditures do not exceed the funds available in the program account.

(2) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,150
Amador	620,264
Butte	5,950,593
Calaveras	913,959
Colusa	799,988
Del Norte	781,358
El Dorado	3,535,288
Glenn	787,933
Humboldt	6,883,182
Imperial	6,394,422
Inyo	1,100,257
Kings	2,832,833
Lassen	687,113
Madera	2,882,147
Marin	7,725,909

Mariposa	435,062
Modoc	469,034
Mono	369,309
Napa	3,062,967
Nevada	1,860,793
Plumas	905,192
San Benito	1,086,011
Shasta	5,361,013
Sierra	135,888
Siskiyou	1,372,034
Solano	6,871,127
Sonoma	13,183,359
Sutter	2,996,118
Tehama	1,912,299
Trinity	611,497
Tuolumne	1,455,320
Yuba	2,395,580

(3) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in paragraph (A) plus the amount determined pursuant to paragraph (B), minus the amount specified in Section 16809.3.

(A)

Jurisdiction	Amount
Lake	1,022,963
Mendocino	1,654,999
Merced	2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the department. This amount shall be subject to the approval of both the Department of Finance and the Small County Advisory Committee before a county is permitted to contract back with the department.

(4) For the 1992–93 fiscal year and fiscal years thereafter, the amounts of the jurisdictional risk limitations shall be adjusted according to the provisions of paragraph (2).

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) The department may pursue third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3.

(n) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if the California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

(o) Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(p) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department shall collectively pursue identified options for the realization of program savings.

(q) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(r) This section shall become operative January 1, 2008.

SEC. 74. In response to a signed consent decree between the United States Department of Justice, Civil Rights Division, and the state pursuant to the Civil Rights of Institutionalized Persons Act (42 U.S.C. Sec. 1997 and following), the State Department of Mental Health shall, commencing in September 2006, and every three months thereafter until the state is in compliance with the consent decree, provide to the appropriate fiscal and policy committees of the Legislature all of the following:

(a) Copies of all monitoring reports produced within the previous six months by the court monitor jointly appointed by the state and the United States Department of Justice. All reports regarding Metropolitan State Hospital shall be included within these monitoring reports.

(b) Copies of other correspondence between the United States Department of Justice, the court monitor, and the State Department of Mental Health regarding compliance with the consent decree.

SEC. 75. The adoption and one readoption of regulations to implement the amendment of Sections 12693.70, 12696.05, and 12699 of the Insurance Code, and the addition of Section 12695.03 to the Insurance Code, by this act, and to implement enhancements to application assistance payments pursuant to Section 12693.32 of the Insurance Code, shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the Managed Risk Medical Insurance Board is hereby exempted from the requirements that it describe specific facts showing the need for immediate action and from review by the Office of Administrative Law. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulation and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

SEC. 76. The Managed Risk Medical Insurance Board shall provide the chairs of the appropriate fiscal and policy committees of the Legislature with copies of each of the individual phases of the evaluation being conducted regarding the Healthy Families Program and the provision of mental health and substance abuse treatment services. These copies shall be provided on a flow basis as appropriate when completed by the contractor.

SEC. 77. (a) The Legislature hereby refers an audit request to the Bureau of State Audits to conduct an audit during the 2007–08 fiscal year of the clinical laboratory oversight programs of the State Department of Health Services to assess the department's practices and procedures for enforcing state laws and regulations regarding the licensing, certification, and registration of clinical laboratories. This audit request shall be considered by the Bureau of State Audits within its overall audit requests.

(b) Any audit conducted pursuant to subdivision (a) shall include, but not be limited to, the following:

(1) A review of the extent and effectiveness of the department's practices and procedures regarding each of the following:

(A) Detecting and determining when clinical laboratories are not in compliance with applicable state laws and regulations.

(B) Investigating cases of possible noncompliance, including, in particular, the investigation of consumer complaints filed with the department against clinical laboratories.

(C) Imposing appropriate sanctions on clinical laboratories that are found not to have complied with state laws and regulations. The audit shall review, in particular, the frequency and extent of the department's use of its existing authority to assess and collect civil fines, refer violators for criminal prosecution, and bar participation from state and federally funded health programs, and its use of any other means available to enforce state law and regulations regarding clinical laboratories.

(2) Recommendations, if any, for improving state oversight of clinical laboratories.

(c) The results of any audit conducted pursuant to subdivision (a) shall be reported to the chair of the Joint Legislative Budget Committee, and the chairs of the fiscal committees, health policy committees, and the business and professions committees of both houses of the Legislature.

SEC. 78. (a) Of the funds appropriated in Item 4260-111-0001 of Section 2.00 of the Budget Act of 2006 from the Cigarette and Tobacco Products Surtax Fund, twenty-four million eight hundred three thousand dollars ($24,803,000) shall be allocated in accordance with subdivision (b) for the 2006–07 fiscal year from the following accounts:

(1) Twenty million two hundred twenty-seven thousand dollars ($20,227,000) from the Hospital Services Account.

(2) Four million five hundred seventy-six thousand dollars ($4,576,000) from the Physician Services Account.

(b) The funds specified in subdivision (a) shall be allocated proportionately as follows:

(1) Twenty-two million three hundred twenty-four thousand dollars ($22,324,000) shall be administered and allocated for distribution through the California Healthcare for Indigents Program (CHIP), Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Two million four hundred seventy-nine thousand dollars ($2,479,000) shall be administered and allocated through the rural health services program, Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(c) Funds allocated pursuant to this section from the Physician Services Account and the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund shall be used only for the reimbursement of physicians for losses incurred in providing

uncompensated emergency services in general acute care hospitals providing basic, comprehensive, or standby emergency services, as defined in Section 16953 of the Welfare and Institutions Code. Funds shall be transferred to the Physician Services Account in the county Emergency Medical Services Fund established pursuant to Sections 16951 and 16952 of the Welfare and Institutions Code, and shall be paid only to physicians who directly provide emergency medical services to patients, based on claims submitted or a subsequent reconciliation of claims. Payments shall be made as provided in Sections 16951 to 16959, inclusive, of the Welfare and Institutions Code, and payments shall be made on an equitable basis, without preference to any particular physician or group of physicians.

SEC. 79. The State Department of Mental Health shall revise its method for auditing entities that provide specialty mental health services under the Early and Periodic Screening, Diagnosis, and Treatment Program, and its method for extrapolating data obtained from those audits, pursuant to this section. Commencing July 1, 2006, and continuing thereafter, the following provisions shall apply:

(a) The department shall select statistically valid stratified samples by service function for each entity to be audited.

(b) The department shall not extrapolate the results of any audit to the full audited service function unless the error rate determined by the audit is 5 percent or greater. If the error rate is less than 5 percent, the department shall disallow only the specific claims found to be in error.

(c) The department, in consultation with stakeholders, shall select an independent statistician to review the sampling methodology and extrapolation methodology used by the department. No later than October 1, 2006, the statistician shall prepare a public report on the statistical validity of those methodologies. If the statistician determines either methodology to be invalid, the department shall adopt a new methodology, which shall be used by the department only after its validity is verified by the statistician.

SEC. 80. (a) Commencing on the date that the Budget Act of 2006 is enacted, funds provided to county mental health departments from Item 6110-161-0890 and Item 4440-104-0001 of the Budget Act of 2006 for services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code shall be timely. Those funds shall be used exclusively to provide state-mandated services pursuant to that chapter, and counties shall identify those funds as provided for this purpose in any future claim for state-mandated reimbursement for services provided pursuant to that chapter.

(1) The State Department of Education shall be responsible for the timely distribution of funds appropriated in Item 6110-161-0890 to

county offices of education. These funds shall be distributed consistent with an allocation plan formulated by the State Department of Mental Health in consultation with representatives of county mental health departments. The timing of distributions shall meet the following requirements:

(A) A minimum of 50 percent of the appropriated funds shall be provided to county mental health departments through the county offices of education by January 1 of each year.

(B) A minimum of 75 percent of the appropriated funds shall be provided to county mental health departments through the county offices of education by March 1 of each year.

(2) The funds appropriated in Item 4440-104-0001 shall be distributed consistent with an allocation plan formulated by the State Department of Mental Health in consultation with representatives of county mental health departments.

(A) The State Department of Mental Health shall make monthly payments of one-twelfth of 95 percent of the funds appropriated in Item 4440-104-0001 of the Budget Act of 2006 to county mental health departments. The remaining 5 percent shall be allocated upon completion of the settle-up pursuant to paragraph (3).

(B) Commencing in the 2007–08 fiscal year, the State Department of Mental Health shall make monthly payments of the funds appropriated in Item 4440-104-0001 of the annual Budget Act to county mental health departments with adopted memoranda of understanding as required in subdivision (b). The remaining 5 percent shall be allocated upon completion of the settle-up pursuant to paragraph (3).

(3) The State Department of Mental Health shall settle payments to actual allowable costs up to the amount available in Item 4440-104-0001 of the annual Budget Act.

(4) Any additional allowable costs incurred by a county mental health department for services required pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code shall be reimbursed through the state mandate claims process.

(b) (1) Commencing in the 2007–08 fiscal year, as a condition of receiving funds appropriated in Item 4440-104-0001 of the annual Budget Act for mental health services for students with individualized education plans pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, a county mental health department and the appropriate county office of education, or a single entity designated by the county office of education, shall enter into a memorandum of understanding.

(2) The State Department of Mental Health shall develop a template of the memorandum of understanding by October 1, 2006, for use by

county mental health departments and county offices of education or their designees. This template shall be developed in collaboration with the State Department of Education and in consultation with county mental health departments and county offices of education. The template for the memorandum of understanding shall contain at a minimum the following elements:

(A) The requirements of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code in the areas of referrals, data collection, and reporting, including, but not limited to, the recommendations made pursuant to Paragraph (3) of subdivision (b) of Section 56139 of the Education Code and paragraph (1) of subdivision (b) of Section 7576.2 of the Government Code.

(B) Data required to be reported by county mental health departments to county offices of education to meet federal reporting requirements under the federal Individuals With Disabilities Education Act.

(C) A description of the array of services to be delivered consistent with assessments and individualized education plans.

(3) The State Department of Mental Health shall submit the template to the Legislature by October 2, 2006. If the template is not completed by October 1, 2006, the State Department of Mental Health and the State Department of Education shall each report to the Legislature on the status of the template and the reasons for not meeting the October 1, 2006, deadline.

(c) The memoranda of understanding shall be adopted by county mental health departments and county offices of education or their designees no later than May 1, 2007.

(d) The memoranda of understanding shall be submitted to the State Department of Mental Health by county mental health departments and to the State Department of Education by county offices of education or their designees within 15 days after adoption.

(e) (1) The State Department of Mental Health and the State Department of Education shall, by May 1, 2007, collaboratively develop claiming instructions for the appropriations in Items 6110-161-0890 and 4440-104-0001 for county mental health departments. The claiming instructions shall be for use in the 2007–08 fiscal year, and subsequent fiscal years. The State Department of Mental Health shall have primary responsibility for developing instructions for the General Fund, and the State Department of Education shall have primary responsibility for developing instructions for funds provided pursuant to the federal Individuals With Disabilities Education Act. The State Department of Mental Health and the State Department of Education shall consult with county mental health departments and county offices of education in the development of those instructions.

(2) The principles to be used in developing the claiming instructions shall be to maximize the appropriate use of federal funds and to use federal funds first.

(3) County mental health departments shall submit claims to county offices of education on a timely basis.

(f) (1) Monitoring of county offices of education and their designees, and county mental health departments, shall be consistent with subdivision (a) of Section 56139 of the Education Code, and subdivision (a) of Section 7576.2 of the Government Code.

(2) The State Department of Mental Health and the State Department of Education shall monitor for timely memoranda of understanding.

(3) The State Department of Mental Health may monitor treatment appropriateness to achieve educational goals as outlined in the individualized education plans.

(4) The State Department of Mental Health may audit costs of claims from county mental health programs for services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The department may also monitor the cost of claims to determine whether they are based on actual costs for cost-efficient services with rates comparable to similar services funded by other state programs.

(5) The State Department of Education may monitor compliance with individualized education plans and the timeliness of payments from county offices of education to county mental health departments.

SEC. 81. (a) The State Department of Health Services shall provide to the fiscal committees of the Legislature, by no later than March 15, 2007, all of the following information regarding the reimbursement rates paid under the Medi-Cal program:

(1) Where applicable, a percent comparison regarding the reimbursement rates paid under Medi-Cal as compared to the reimbursement rates paid under the federal Medicare Program, excluding rates applicable to dental services, pharmacy, federally-qualified health centers, rural health clinics, and health facilities.

(2) Where applicable, an estimate of the cost for increasing all Medi-Cal reimbursement rates that are comparable to the federal Medicare Program rates, up to a minimum of 50 percent of the rate paid under the federal Medicare Program. The estimate shall take into account increases necessary to keep managed care rates comparable.

(3) For those procedures reimbursed only under the Medi-Cal program, excluding dental services, a prioritized listing of services and procedure codes, as determined by the department, that may merit adjustment based on a review by the department or a contractor. The estimates shall take into account increases necessary to keep managed care rates comparable.

(b) The department may utilize up to three hundred thousand dollars ($300,000) of funds appropriated in Item 4260-101-0001 and three hundred thousand dollars ($300,000) of funds appropriated in Item 4260-101-0890 of the Budget Act of 2006 for the purposes specified in subdivision (a), and may amend existing contracts to expedite any necessary data collection or data analysis.

SEC. 82. (a) The Legislature, in acknowledgment that planning for a disaster is critical to protect the citizens of the State of California, authorizes the California Health and Human Services Agency to implement a plan to improve the state's ability to respond to a public health emergency. Given the magnitude and importance of this effort, the Legislature requires frequent updates. Consequently, the California Health and Human Services Agency, in consultation with the Office of Emergency Services, shall report, on a quarterly basis commencing October 1, 2006, to the appropriate fiscal and policy committees of the Legislature, on the state's progress. The report shall provide an update on the acquisition of disaster preparedness equipment and supplies, including ventilators, masks, mobile field hospitals, alternate care sites, and antivirals. The report shall also describe the effect these efforts have had on the state's ability to respond in the event of a public health disaster.

(b) By no later than November 15, 2006, the California Health and Human Services Agency shall provide to the appropriate fiscal and policy committees of the Legislature the state's plan for the new health care delivery response system in the event of a disaster.

SEC. 83. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 84. 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 2006 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 75

An act to amend Sections 8222, 8279.7, 8447, 42921, and 49561 of, to add Section 69519 to, and to repeal Section 8222.5 of, the Education

Code, to amend Sections 17560 and 17706 of, and to add Sections 17307 and 17433.5 to, the Family Code, to amend Sections 1522, 1534, 1569.33, 1596.871, 1597.09, 1597.55a, 11831.5, and 11839.7 of, to add Sections 1522.08, 11999.6.1, and 129856 to, to add and repeal Division 10.10 (commencing with Section 11999.30) to, and to repeal Section 11970.4 of, the Health and Safety Code, to amend Section 1611.5 of the Unemployment Insurance Code, and to amend Sections 366.21, 366.22, 10544, 10553.25, 11327.5, 11367, 11403.3, 11450, 11462, 11466.21, 12201.03, 12201.05, 12304.4, 14124.93, 15204.6, and 16605 of, to add Sections 10507, 10533, 10534, 10535, 10540.6, 10609.9, 11216, 11320.32, and 16124 to, to add Article 4.75 (commencing with Section 11380) to Chapter 2 of Part 3 of Division 9 of, to add Chapter 4.5 (commencing with Section 18260) to Part 6 of Division 9 of, and to add Division 26 (commencing with Section 25200) to, and to amend, repeal, and add Sections 11363 and 11364 of, the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2006. Filed with Secretary of State July 12, 2006.]

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

SECTION 1. Section 8222 of the Education Code is amended to read:

8222. (a) Payments made by alternative payment programs shall be equal to the rate charged to full-cost families in each program, not to exceed the applicable market rate ceiling. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year may not exceed the assigned reimbursable amount as established by the contract for the year. No agency may make payments in excess of the rate charged to full-cost families. This section does not preclude alternative payment programs from using the average daily enrollment adjustment factors for children with exceptional needs as provided in Section 8265.5.

(b) Alternative payment programs shall reimburse licensed child care providers in accordance with an annual market rate survey, at a rate not to exceed the ceilings established pursuant to statute.

(c) An alternative payment program shall reimburse a licensed provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the provider for prospective nonsubsidized

families. A licensed child care provider shall submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged, and the provider's discount or scholarship policies, if any, along with a statement signed by the provider confirming that the rates charged for any subsidized child are equal to or less than the rates charged for a nonsubsidized child.

(d) An alternative payment program shall maintain a copy of the rate sheet and the confirmation statement.

(e) A licensed child care provider shall submit to the local resource and referral agency a copy of the provider's rate sheet listing rates charged, and the provider's discount or scholarship policies, if any, and shall self-certify that the information is correct.

(f) Each licensed child care provider may alter rate levels for subsidized children once per year and shall provide the alternative payment program and resource and referral agency with the updated information pursuant to subdivisions (c) and (e), to reflect any changes.

(g) A licensed child care provider shall post in a prominent location adjacent to the provider's license at the child care facility the provider's rates and discounts or scholarship polices, if any.

(h) An alternative payment program shall verify provider rates once a year by randomly selecting 10 percent of licensed child care providers serving subsidized families. The purpose of this verification process is to confirm that rates reported to the alternative payment programs reasonably correspond to those reported to the resource and referral agency and the rates actually charged to nonsubsidized families for equivalent levels of services. It is the intent of the Legislature that the privacy of nonsubsidized families shall be protected in implementing this subdivision.

(i) The State Department of Education shall develop regulations for addressing any discrepancies in the provider rate levels identified through the rate verification process in subdivision (h).

SEC. 2. Section 8222.5 of the Education Code is repealed.

SEC. 3. Section 8279.7 of the Education Code is amended to read:

8279.7. (a) The Legislature recognizes the importance of providing quality child care services. It is, therefore, the intent of the Legislature to assist counties in improving the retention of qualified child care employees who work directly with children who receive state-subsidized child care services.

(b) It is further the intent of the Legislature, in amending this section during the 2005–06 Regular Session, to address the unique challenges of the County of Los Angeles, in which an estimated 60,000 low-income children receive subsidized child care in nonstate-funded child care

settings and an additional 50,000 eligible children are waiting for subsidized services.

(c) (1) Except as provided in paragraph (2), the funds appropriated for the purposes of this section by paragraph (11) of Schedule (b) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000), and that are described in subdivision (i) of Provision 7 of that item, and any other funds appropriated for purposes of this section, shall be allocated to local child care and development planning councils based on the percentage of state-subsidized, center-based child care funds received in that county, and shall be used to address the retention of qualified child care employees in state-subsidized child care centers.

(2) Of the funds identified in paragraph (1), funds qualified pursuant to subparagraphs (A) to (C), inclusive, may also be used to address the retention of qualified persons working in licensed child care programs that serve a majority of children who receive subsidized child care services pursuant to this chapter, including, but not limited to, family day care homes as defined in Section 1596.78 of the Health and Safety Code. To qualify for use pursuant to this paragraph, the funds shall meet all of the following requirements:

(A) The funds are allocated for use in the County of Los Angeles.

(B) The funds are appropriated either in paragraph (11) of Schedule (b) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000) and are described in subdivision (i) of Provision 7 of that item, in paragraph (*l*) of Schedule (1.5) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2004 (Ch. 208, Stats. 2004) and are described in subdivision (i) of Provision 7 of that item, in paragraph (1) of Schedule (1.5) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2005 (Ch. 38, Stats. 2005), in paragraph (1) of Schedule (1.5) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2006 and are described in subdivision (g) of Provision 5 of that item, and if funding is provided, in corresponding sections of the 2007 and 2008 Budget Acts.

(C) The funds are unexpended after addressing the retention of qualified child care employees in state-subsidized child care centers and family child care home education networks.

(d) The department shall develop guidelines for use by local child care and development planning councils in developing county plans for the expenditure of funds allocated pursuant to this section. These guidelines shall be consistent with the department's assessment of the current needs of the subsidized child care workforce, and shall be subject to the approval of the Secretary for Education and the Department of Finance. Any county plan developed pursuant to these guidelines shall

be approved by the department prior to the allocation of funds to the local child care and development planning council.

(e) Funds provided to a county for the purposes of this section shall be used in accordance with the plan approved pursuant to subdivision (d). A county with an approved plan may retain up to 1 percent of the county's total allocation made pursuant to this section for reimbursement of administrative expenses associated with the planning process.

(f) The Superintendent of Public Instruction shall provide an annual report, no later than April 10 of each year, to the Legislature, the Secretary for Education, the Department of Finance, and the Governor that includes, but is not limited to, a summary of the distribution of the funds by county and a description of the use of the funds.

SEC. 3.1. Section 8447 of the Education Code is amended to read:

8447. (a) The Legislature hereby finds and declares that greater efficiencies may be achieved in the execution of state subsidized child care and development program contracts with public and private agencies by the timely approval of contract provisions by the Department of Finance, the Department of General Services, and the State Department of Education and by authorizing the State Department of Education to establish a multiyear application, contract expenditure, and service review as may be necessary to provide timely service while preserving audit and oversight functions to protect the public welfare.

(b) (1) The Department of Finance and the Department of General Services shall approve or disapprove annual contract funding terms and conditions, including both family fee schedules and regional market rate schedules that are required to be adhered to by contract, and contract face sheets submitted by the State Department of Education not more than 30 working days from the date of submission, unless unresolved conflicts remain between the Department of Finance, the State Department of Education, and the Department of General Services. The State Department of Education shall resolve conflicts within an additional 30 working day time period. Contracts and funding terms and conditions shall be issued to child care contractors no later than June 1. Applications for new child care funding shall be issued not more than 45 working days after the effective date of authorized new allocations of child care moneys.

(2) Notwithstanding paragraph (1), for the 2006–07 fiscal year, the State Department of Education shall implement the regional market rate schedules based upon the county aggregates, as determined by the Regional Market survey conducted in 2005. The regional market rate schedules shall be implemented no later than 90 days after the enactment of the 2006 Budget Act.

(3) Notwithstanding paragraph (1), for the 2006–07 fiscal year, the State Department of Education shall update the family fee schedules by family size, based on the 2005 state median income survey data for a family of four. The family fee schedule used during the 2005–06 fiscal year shall remain in effect. However, the department shall adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits. The family fees shall not exceed 10 percent of the family's monthly income.

(4) It is the intent of the Legislature to fully fund the third stage of child care for CalWORKs recipients.

(c) With respect to subdivision (b), it is the intent of the Legislature that the Department of Finance annually review contract funding terms and conditions for the primary purpose of ensuring consistency between child care contracts and the child care budget. This review, shall include evaluating any proposed changes to contract language or other fiscal documents to which the contractor is required to adhere, including those changes to terms or conditions that authorize higher reimbursement rates, that modify related adjustment factors, that modify administrative or other service allowances, or that diminish fee revenues otherwise available for services, to determine if the change is necessary or has the potential effect of reducing the number of full-time equivalent children that may be served.

(d) Alternative payment child care systems, as set forth in Article 3 (commencing with Section 8220), shall be subject to the rates established in the Regional Market Rate Survey of California Child Care Providers for provider payments. The State Department of Education shall contract to conduct and complete the annual Regional Market Rate Survey with a goal of completion by March 1.

(e) By March 1 of each year, the Department of Finance shall provide to the State Department of Education the State Median Income amount for a four-person household in California based on the best available data. The State Department of Education shall adjust its fee schedule for child care providers to reflect this updated state median income.

(f) Notwithstanding the June 1 date specified in subdivision (b), changes to the regional market rate schedules and fee schedules may be made at any other time to reflect the availability of accurate data necessary for their completion, provided these documents receive the approval of the Department of Finance. The Department of Finance shall review the changes within 30 working days of submission and the State Department of Education shall resolve conflicts within an additional 30 working day period. Contractors shall be given adequate notice prior to the effective date of the approved schedules. It is the intent of the

Legislature that contracts for services not be delayed by the timing of the availability of accurate data needed to update these schedules.

SEC. 4. Section 42921 of the Education Code is amended to read:

42921. (a) In addition to the six program sites specified in Section 42920, any county office of education, or consortium of county offices of education, may elect to apply to the Superintendent of Public Instruction for grant funding, to the extent funds are available, to operate an education-based foster youth services program to provide educational and support services for foster children who reside in a licensed foster home or county-operated juvenile detention facility. The provision of educational and support services to foster youth in licensed foster homes shall also apply to foster youth services programs in operation as of July 1, 2006, and receiving grant funding.

(b) Each foster youth services program operated pursuant to this chapter, if sufficient funds are available, shall have at least one person identified as the foster youth educational services coordinator. The foster youth educational services coordinator shall facilitate the provision of educational services pursuant to subdivision (d) to any foster child in the county who is either under the jurisdiction of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code or under the jurisdiction of the juvenile court pursuant to Section 601 or 602 of the Welfare and Institutions Code who is placed in a licensed foster home or county-operated juvenile detention facility. A program operated pursuant to this chapter may prescribe the methodology for determining which children may be served. Applicable methodologies may include, but are not limited to, serving specific age groups, serving children in specific geographic areas with the highest concentration of foster children or serving the children with the greatest academic need. It is the intent of the Legislature that children with the greatest need for services be identified as the first priority for foster youth services.

(c) The responsibilities of the foster youth educational services coordinator shall include, but shall not be limited to, all of the following:

(1) Working with the child welfare agency to minimize changes in school placement.

(2) Facilitating the prompt transfer of educational records, including the health and education passport, between educational institutions when placement changes are necessary.

(3) Providing education-related information to the child welfare agency to assist the child welfare agency to deliver services to foster children, including, but not limited to, educational status and progress information required for inclusion in court reports by Section 16010 of the Welfare and Institutions Code.

(4) Responding to requests from the juvenile court for information and working with the court to ensure the delivery or coordination of necessary educational services.

(5) Working to obtain and identify, and link children to, mentoring, tutoring, vocational training, and other services designed to enhance the educational prospects of foster children.

(6) Facilitating communication between the foster care provider, the teacher, and any other school staff or education service providers for the child.

(7) Sharing information with the foster care provider regarding available training programs that address education issues for children in foster care.

(8) Referring caregivers of foster youth who have special education needs to special education programs and services.

(d) Each foster youth services program operated pursuant to this chapter shall include guiding principles that establish a hierarchy of services, in accordance with the following order:

(1) Provide, or arrange for the referral to, tutoring services for foster youth.

(2) Provide, or arrange for the referral to, services that meet local needs identified through collaborative relationships and local advisory groups, which may include, but shall not be limited to, all of the following:

(A) Mentoring.

(B) Counseling.

(C) Transitioning services.

(D) Emancipation services.

(3) Facilitation of timely individualized education programs, in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and of all special education services.

(4) Establishing collaborative relationships and local advisory groups.

(5) Establishing a mechanism for the efficient and expeditious transfer of health and education records and the health and education passport.

(e) For purposes of this section, "licensed foster home" means a licensed foster family home, certified foster family agency home, court-specified home, or licensed care institution (group home).

SEC. 5. Section 49561 of the Education Code is amended to read:

49561. (a) The department shall create a computerized data-matching system using existing databases from the department and the State Department of Health Services to directly certify recipients of the Food Stamp Program, the California Work Opportunity and Responsibility to Kids Act program (the CalWORKs program) (Ch. 2 (commencing with Sec. 11200), Pt. 3, Div. 9, W. & I.C.), and other programs authorized

for direct certification under federal law, for enrollment in the National School Lunch and School Breakfast Programs. This subdivision does not include Medi-Cal benefits within the criteria for direct certification specified in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265).

(b) The department shall design a process using an existing agency database that will conform with data from the State Department of Health Services to meet the direct certification requirements of the National School Lunch Act, as amended, pursuant to Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code, and the Child Nutrition Act of 1966, as amended, pursuant to Chapter 13A (commencing with Section 1771) of Title 42 of the United States Code.

(c) The department shall design a process using computerized data pursuant to subdivision (a) that will maximize enrollment in school meal programs and improve program integrity while ensuring that pupil privacy safeguards remain in place.

(d) (1) Each state agency identified in subdivision (a) is responsible for the maintenance and protection of data received by their respective agency. The state agency that possesses the data shall follow privacy and confidentiality procedures consistent with all applicable state and federal law.

(2) Notwithstanding Section 10850 of the Welfare and Institutions Code, data that identify applicants for, or recipients of, public social services, may be transferred from existing databases maintained by the State Department of Health Services, in order to directly certify recipients of the Food Stamp Program, the CalWORKs program, and other programs authorized for direct certification under federal law, in compliance with subdivision (a). The Legislature hereby finds and declares that this paragraph is declaratory of existing law.

(e) The department shall determine the availability of and request or apply for, as appropriate, federal funds to assist the state in implementing new direct certification requirements mandated by federal law.

(f) This section shall become operative upon receipt of federal funds to assist the state in implementing new direct certification requirements mandated by federal law.

SEC. 5.1. Section 69519 is added to the Education Code, to read:

69519. (a) The commission, through an interagency agreement with the State Department of Social Services, currently operates a federally funded scholarship program that provides grant aid to provide access to California's current and former foster youth to postsecondary education. Funds provided through an appropriation by the Legislature shall be supplemental to funds provided by the federal government and are

designated to ensure program availability in the absence of and prior to the annual receipt of federal funds for this purpose.

(b) Funds provided for this program shall be used to assist students who are current and former foster youth, for career and technical training or traditional college courses. The commission shall operate this program in accordance with the program instructions provided by the federal Department of Health and Human Services, Administration for Children and Families, and the program guidelines developed by the State Department of Social Services.

(c) The total amount of funding and the amount of individual awards shall depend upon the amount of federal funding provided in addition to state funding. The commission, in conjunction with the State Department of Social Services, shall determine the individual award amounts and total number of students awarded on an annual basis as the amount of total annual funding is determined.

SEC. 6. Section 17307 is added to the Family Code, to read:

17307. (a) The Legislature hereby finds and declares that the Department of Child Support Services has the authority and discretion to prevent, correct, or remedy the effects of changes in the timing of the receipt of child support payments resulting solely from the initial implementation of the federally required State Disbursement Unit. This authority shall not be construed to supplant existing statutory appropriation and technology project approval processes, limits, and requirements.

(b) The Legislature hereby finds and declares that this section is declaratory of existing law.

SEC. 7. Section 17433.5 is added to the Family Code, to read:

17433.5. In any action enforced pursuant to this article, no interest shall accrue on an obligation for current child, spousal, family, or medical support due in a given month until the first day of the following month.

SEC. 8. Section 17560 of the Family Code is amended to read:

17560. (a) The department shall create a program establishing an arrears collection enhancement process pursuant to which the department may accept offers in compromise of child support arrears and interest accrued thereon owed to the state for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. The program shall operate uniformly across California and shall take into consideration the needs of the children subject to the child support order and the obligor's ability to pay.

(b) If the obligor owes current child support, the offer in compromise shall require the obligor to be in compliance with the current support

order for a set period of time before any arrears and interest accrued thereon may be compromised.

(c) Absent a finding of good cause, any offer in compromise entered into pursuant to this section shall be rescinded, all compromised liabilities shall be reestablished notwithstanding any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise may be refunded, if either of the following occurs:

(1) The department or local child support agency determines that the obligor did any of the following acts regarding the offer in compromise:

(A) Concealed from the department or local child support agency any income, assets, or other property belonging to the obligor or any reasonably anticipated receipt of income, assets, or other property.

(B) Intentionally received, withheld, destroyed, mutilated, or falsified any information, document, or record, or intentionally made any false statement, relating to the financial conditions of the obligor.

(2) The obligor fails to comply with any of the terms and conditions of the offer in compromise.

(d) Pursuant to subdivision (k) of Section 17406, in no event may the administrator, director, or director's designee within the department, accept an offer in compromise of any child support arrears owed directly to the custodial party unless that party consents to the offer in compromise in writing and participates in the agreement. Prior to giving consent, the custodial party shall be provided with a clear written explanation of the rights with respect to child support arrears owed to the custodial party and the compromise thereof.

(e) Subject to the requirements of this section, the director may delegate to the administrator of a local child support agency the authority to compromise an amount of child support arrears that does not exceed five thousand dollars ($5,000). Only the director or his or her designee may compromise child support arrears in excess of five thousand dollars ($5,000).

(f) For an amount to be compromised under this section, the following conditions shall exist:

(1) (A) The administrator, director or director's designee within the department determines that acceptance of an offer in compromise is in the best interest of the state and that the compromise amount equals or exceeds what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in the absence of the compromise, based on the obligor's ability to pay.

(B) Acceptance of an offer in compromise shall be deemed to be in the best interest of the state, absent a finding of good cause to the contrary, with regard to arrears that accrued as a result of a decrease in

income when an obligor was a reservist or member of the National Guard, was activated to United States military service, and failed to modify the support order to reflect the reduction in income. Good cause to find that the compromise is not in the best interest of the state shall include circumstances in which the service member's failure to seek, or delay in seeking, the modification were not reasonable under the circumstances faced by the service member. The director, no later than 90 days after the effective date of the act adding this subparagraph, shall establish rules that compromise, at a minimum, the amount of support that would not have accrued had the order been modified to reflect the reduced income earned during the period of active military service.

(2) Any other terms and conditions that the director establishes that may include, but may not be limited to, paying current support in a timely manner, making lump-sum payments, and paying arrears in exchange for compromise of interest owed.

(3) The obligor shall provide evidence of income and assets, including, but not limited to, wage stubs, tax returns, and bank statements and establish all of the following:

(A) That the amount set forth in the offer in compromise of arrears owed is the most that can be expected to be paid or collected from the obligor's present assets or income.

(B) That the obligor does not have reasonable prospects of acquiring increased income or assets that would enable the obligor to satisfy a greater amount of the child support arrears than the amount offered, within a reasonable period of time.

(C) That the obligor has not withheld payment of child support in anticipation of the offers in compromise program.

(g) A determination by the administrator, director or the director's designee within the department that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of child support arrears shall be final and not subject to the provisions of Chapter 5 (commencing with Section 17800) of Division 17, or subject to judicial review.

(h) Any offer in compromise entered into pursuant to this section shall be filed with the appropriate court. The local child support agency shall notify the court if the compromise is rescinded pursuant to subdivision (c).

(i) Any compromise of child support arrears pursuant to this section shall maximize to the greatest extent possible the state's share of the federal performance incentives paid pursuant to the Child Support Performance and Incentive Act of 1998 and shall comply with federal law.

(j) The department shall ensure uniform application of this section across the state.

(k) The department shall consult with the Franchise Tax Board in the development of the program established pursuant to this section.

(*l*) The department shall report to the Legislature on the results of the program established pursuant to this section no later than January 1, 2008.

(m) This section shall remain in effect only until July 1, 2008, and as of that date is repealed unless a later enacted statute, that is enacted before July 1, 2008, deletes or extends that date. A local child support agency shall honor repayment schedules for the compromise program beyond June 30, 2008, in order to allow for successful completion of the compromise agreements.

SEC. 9. Section 17706 of the Family Code is amended to read:

17706. (a) It is the intent of the Legislature to encourage counties to elevate the visibility and significance of the child support enforcement program in the county. To advance this goal, effective July 1, 2000, the counties with the 10 best performance standards pursuant to clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 17704 shall receive an additional 5 percent of the state's share of those counties' collections that are used to reduce or repay aid that is paid pursuant to Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. The counties shall use the increased recoupment for child support-related activities that may not be eligible for federal child support funding under Part D of Title IV of the Social Security Act, including, but not limited to, providing services to parents to help them better support their children financially, medically, and emotionally.

(b) The operation of subdivision (a) shall be suspended for the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

SEC. 10. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to

require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) (1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined

necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensed or certified foster parent, who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the licensee are not left alone with the foster children. However, the licensee, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friends when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee, acting as a reasonable and prudent parent, may allow the parent of the foster child's friends to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any licensed or certified foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services or sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to submit fingerprints to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for

this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the State Department of Social Services, as required by that section, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act

immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) have convictions that would make the applicant's home unfit as a foster family

home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) An applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall submit a set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and all persons described in subdivision (b), the department may issue a license, or the foster family agency may issue a certificate of approval, if the applicant, and each person described in subdivision (b), has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure or certification, the department determines that the licensee, certified foster parent, or any person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550 and the certificate of approval revoked pursuant to subdivision (b) of Section 1534. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice or send them by electronic transmission in a manner approved by the State Department of Social Services. A foster family home licensee or foster family agency shall submit these fingerprints to the Department of Justice, along with

a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence. A foster family agency's failure to submit fingerprints to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family agency pursuant to Section 1550. A licensee's failure to submit fingerprints to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, may result in the citation of a deficiency and immediate civil penalties of one hundred dollars ($100) per violation. A licensee's violation of regulations adopted pursuant to Section 1522.04 may result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be

denied, unless the director grants an exemption pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, 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, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law

prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department or a county office with department-delegated licensing authority a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) (1) The Department of Justice shall coordinate with the State Department of Social Services to establish and implement an automated live-scan processing system for fingerprints in the district offices of the Community Care Licensing Division of the State Department of Social Services by July 1, 1999. These live-scan processing units shall be connected to the main system at the Department of Justice by July 1, 1999, and shall become part of that department's pilot project in accordance with its long-range plan. The State Department of Social Services may charge a fee for the costs of processing a set of live-scan fingerprints.

(2) The Department of Justice shall provide a report to the Senate and Assembly fiscal committees, the Assembly Human Services Committee, and to the Senate Health and Human Services Committee by April 15, 1999, regarding the completion of backlogged criminal record clearance requests for all facilities licensed by the State Department of Social Services and the progress on implementing the automated live-scan processing system in the two district offices pursuant to paragraph (1).

(*l*) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal

Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 11. Section 1522.08 is added to the Health and Safety Code, to read:

1522.08. (a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, departments under the jurisdiction of the California Health and Human Services Agency may share information between departments within the agency with respect to applicants, licensees, certificants, or individuals who have been the subject of any disciplinary action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility, as otherwise provided by law. The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of administrative disciplinary actions, to be used by all departments under the jurisdiction of the California Health and Human Services Agency as a part of the background check process.

(b) The State Department of Social Services, in consultation with the other departments under the jurisdiction of the California Health and Human Services Agency, may adopt regulations to implement this section.

(c) The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency sufficient to cover the cost of providing those departments with the disciplinary record information specified in subdivision (a).

SEC. 13. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(i) When a license is on probation.

(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

(iii) When an accusation against a licensee is pending.

(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

(B) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subparagraph (A). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an evaluation under subparagraph (A). The department may request additional resources to increase the random sample by 10 percent.

(C) Under no circumstance shall the department visit a community care facility less often than once every five years.

(D) In order to facilitate direct contact with group home clients, the department may interview children who are clients of group homes at any public agency or private agency at which the client may be found, including, but not limited to, a juvenile hall, recreation or vocational program, or a nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that he or she has the right not to be interviewed and the right to have another adult present during the interview.

(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(b) (1) Nothing in this section shall limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program where a licensed community care facility is certifying compliance with licensing requirements.

(2) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

(3) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent

of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(4) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(5) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(6) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(7) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(8) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(9) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of employment by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

SEC. 16. Section 1569.33 of the Health and Safety Code is amended to read:

1569.33. (a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) When a facility requires an annual visit as a condition of receiving federal financial participation.

(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years.

(e) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(f) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(g) As a part of the department's annual evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

SEC. 18. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as defined in the long-range plan of the Department of Justice for fully automating the processing of

fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) (1) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years, neither the Department of Justice nor the department may charge a fee for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a child, residing in the facility.

(C) Any person who provides care and supervision to the children.

(D) Any staff person, volunteer, or employee who has contact with the children.

(i) A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.

(ii) A student enrolled or participating at an accredited educational institution shall be exempt from the requirements of this subdivision if the student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the facility has an agreement with the educational institution concerning the placement of the student, the student spends no more than 16 hours per week at the facility, and the student is not left alone with children in care.

(iii) A volunteer who is a relative, legal guardian, or foster parent of a client in the facility shall be exempt from the requirements of this subdivision.

(iv) A contracted repair person retained by the facility, if not left alone with children in care, shall be exempt from the requirements of this subdivision.

(v) Any person similar to those described in this subdivision, as defined by the department in regulations.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(F) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(H) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(I) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal record clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(2) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints

to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The State Department of Social Services may assess civil penalties for continued violations permitted by Sections 1596.99 and 1597.62. The fingerprints shall then be submitted to the State Department of Social Services for processing. Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month

period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The department may assess civil penalties for continued violations, as permitted by Sections 1596.99 and 1597.62.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(3) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(4) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may

seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, 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, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant

and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) or (b) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice, only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department or a county office with department-delegated licensing authority a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) Amendments to this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing January 1, 1999.

SEC. 19. Section 1597.09 of the Health and Safety Code is amended to read:

1597.09. (a) Each licensed child day care center shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit to a licensed child day care center under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a child day care center by the department is no longer at the facility.

(c) The department shall conduct an annual unannounced visit to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed child day care center less often than once every five years.

SEC. 20. Section 1597.55a of the Health and Safety Code is amended to read:

1597.55a. Every family day care home shall be subject to unannounced visits by the department as provided in this section. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(a) The department shall conduct an announced site visit prior to the initial licensing of the applicant.

(b) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a family day care home by the department is no longer at the facility.

(c) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total

by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed family day care home less often than once every five years.

(e) A public agency under contract with the department may make spot checks if it does not result in any cost to the state. However, spot checks shall not be required by the department.

(f) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853.

(g) An unannounced site visit shall adhere to both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

(h) The department shall implement this section during periods that Section 1597.55b is not being implemented in accordance with Section 18285.5 of the Welfare and Institutions Code.

SEC. 21. 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 qualified alcoholism or drug abuse recovery or treatment program, regardless of the source of the program's funding, upon approval of a completed application and payment of the required fee. The certification shall be valid for a period of not more than two years. The department may extend the certification period upon receipt of an application for renewal and payment of the required certification fee prior to the expiration date of the certification.

(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 provide accreditation that meets or exceeds the department's standards and 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 a memorandum of understanding 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, that have programs that primarily serve adolescents and provide alcohol and other drug recovery or treatment services.

(h) 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. Nothing in this subdivision shall be interpreted to prohibit the department from adopting subsequent amendments on a nonemergency basis or as emergency regulations in accordance with the standards set forth in Section 11346.1 of the Government Code.

SEC. 22. Section 11839.7 of the Health and Safety Code is amended to read:

11839.7. (a) (1) Each narcotic treatment program authorized to use replacement narcotic therapy in this state, except narcotic treatment research programs approved by the Research Advisory Panel, shall be licensed by the department.

(2) Each narcotic treatment program, other than a program owned and operated by the state, county, city, or city and county, shall, upon application for licensure and for renewal of a license, pay an annual license fee to the department. July 1 shall be the annual license renewal date.

(3) The department shall set the licensing fee at a level sufficient to cover all departmental costs associated with licensing incurred by the department, but the fee shall not, except as specified in this section, increase at a rate greater than the Consumer Price Index. The fees shall include the department's share of pro rata charges for the expenses of state government. The fee may be paid quarterly in arrears as determined by the department. Fees paid quarterly in arrears shall be due and payable on the last day of each quarter except for the fourth quarter for which payment shall be due and payable no later than May 31. A failure of a program to pay renewal license fees by the due date shall give rise to a civil penalty of one hundred dollars ($100) a day for each day after the due date. Second and subsequent inspection visits to narcotic treatment programs that are operating in noncompliance with the applicable laws and regulations shall be charged a rate of one-half the program's annual license fee or one thousand dollars ($1,000), whichever is less, for each visit.

(4) Licensing shall be contingent upon determination by the department that the program is in compliance with applicable laws and regulations and upon payment of the licensing fee. A license shall not be transferable.

(5) (A) As used in this chapter, "quarter" means July, August, and September; October, November, and December; January, February, and March; and April, May, and June.

(B) As used in this chapter, "license" means a basic permit to operate a narcotic treatment program. The license shall be issued exclusively by the department and operated in accordance with a patient capacity that shall be specified, approved, and monitored solely by the department.

(b) Each narcotic treatment program, other than a program owned and operated by the state, county, city, or city and county, shall be charged an application fee that shall be at a level sufficient to cover all departmental costs incurred by the department in processing either an application for a new program license, or an application for an existing program that has moved to a new location.

(c) Any licensee that increases fees to the patient, in response to increases in licensure fees required by the department, shall first provide written disclosure to the patient of that amount of the patient fee increase that is attributable to the increase in the licensure fee. This provision shall not be construed to limit patient fee increases imposed by the licensee upon any other basis.

SEC. 23. Section 11970.4 of the Health and Safety Code is repealed.

SEC. 23.1. Section 11999.6.1 is added to the Health and Safety Code, to read:

11999.6.1. (a) Notwithstanding any other provision of law, when the department allocates funds appropriated to the Substance Abuse Treatment Trust Fund, it shall withhold from any allocation to a county the amount of funds previously allocated to that county from the fund that are projected to remain unencumbered, up to the amount that would otherwise be allocated to that county. The department shall allow a county with unencumbered funds to retain a reserve of 5 percent of the amount allocated to that county for the most recent fiscal year in which the county received an allocation from the fund without a reduction pursuant to this subdivision.

(b) The department shall allocate 75 percent of the amount withheld pursuant to subdivision (a) in accordance with Section 11999.6 and any regulations adopted pursuant to that section, but taking into account any amount withheld pursuant to subdivision (a).

(c) The department shall reserve 25 percent of the amount withheld pursuant to subdivision (a) until all counties have submitted final actual expenditures for the most recent fiscal year. The department shall then allocate the funds reserved to adjust for actual rather than projected unencumbered funds, to the extent that the amount reserved is adequate to do so. Any balance of funds not reallocated pursuant to this subdivision shall be allocated in accordance with subdivision (e).

(d) If the department determines from actual expenditures that more funds should have been withheld from any county than were withheld pursuant to subdivision (a), it shall adjust any allocations pursuant to subdivision (e) accordingly, to the extent possible. If one or more counties fails to report actual expenditures in a timely manner, the department may, in its discretion, proceed with the available information, and may exclude any nonreporting county from any allocations pursuant to this section.

(e) If revenues, funds, or other receipts to the Substance Abuse Treatment Trust Fund are sufficient to create additional allocations to counties, through reconsideration of unencumbered funds, audit recoveries, or otherwise, the Director of Finance may authorize expenditures for the department in excess of the amount appropriated

no earlier than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees in each house and the Chairperson of the Joint Legislative Budget Committee, or at an earlier time that the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

(f) The department may implement this section by All-County Lead Agency letters or other similar instructions, and need not comply with the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 23.2. Division 10.10 (commencing with Section 11999.30) is added to the Health and Safety Code, to read:

DIVISION 10.10. SUBSTANCE ABUSE OFFENDER TREATMENT PROGRAM

11999.30. (a) This division shall be known as the Substance Abuse Offender Treatment Program. Funds distributed under this division shall be used to serve offenders who qualify for services under the Substance Abuse and Crime Prevention Act of 2000, including any amendments thereto. Implementation of this division is subject to an appropriation in the annual Budget Act.

(b) The department shall distribute funds for the Substance Abuse Offender Treatment Program to counties that demonstrate a commitment of county general funds or funds from a source other than the state, which demonstrates eligibility for the program. The department shall establish a methodology for allocating funds under the program. The maximum amount an eligible county may receive shall not exceed an amount equal to 30 percent of the county's allocation from the department for that fiscal year from the trust fund established pursuant to Section 11999.4. The allocation methodology shall be based on the following factors:

(1) The percentage of offenders ordered to drug treatment that actually begin treatment.

(2) The percentage of offenders ordered to treatment that completed the prescribed course of treatment.

(3) Any other factor determined by the department.

(c) The distribution of funds for this program to each eligible county shall be at a ratio of nine dollars ($9) for every one dollar ($1) of eligible county matching funds.

(d) County eligibility for matching funds under this division shall be determined by the department according to specified criteria, including, but not limited to, all of the following:

(1) The establishment and maintenance of dedicated court calendars with regularly scheduled reviews of treatment progress for persons ordered to drug treatment.

(2) The existence or establishment of a drug court, and willingness to accept defendants who are likely to be committed to state prison.

(3) The establishment and maintenance of protocols for the use of drug testing to monitor offenders' progress in treatment.

(4) The establishment and maintenance of protocols for assessing offenders' treatment needs and the placement of offenders at the appropriate level of treatment.

(e) The department, in its discretion, may exclude administrative costs in determining the amount of eligible county match, and may restrict or prohibit the expenditure of funds provided under this division for those purposes. The department may also require a limitation on the expenditure of funds provided under this division for services other than direct treatment costs, as a condition of receipt of program funds.

(f) To receive funds under this division, a county shall submit an application to the department documenting all of the following:

(1) The county's commitment of funds, as required by subdivision (b).

(2) The county's eligibility, as determined by the criteria set forth in subdivision (d).

(3) The county's plan and commitment to utilize the funds for the purposes of the program, which may include, but are not limited to, all of the following:

(A) Enhancing treatment services for offenders assessed to need them, including residential treatment and narcotic replacement therapy.

(B) Increasing the proportion of sentenced offenders who enter, remain in, and complete treatment, through activities and approaches such as colocation of services, enhanced supervision of offenders, and enhanced services determined necessary through the use of drug test results.

(C) Reducing delays in the availability of appropriate treatment services.

(D) Use of a drug court model, including dedicated court calendars with regularly scheduled reviews of treatment progress, and strong collaboration by the courts, probation, and treatment.

(E) Developing treatment services that are needed but not available.

(F) Other activities, approaches, and services approved by the department, after consultation with stakeholders.

(g) The department shall audit county expenditures of funds distributed pursuant to this division. Expenditures not made in accordance with this division shall be repaid to the state.

(h) The department shall consult with stakeholders and report during annual budget hearings on additional recommendations for improvement of programs and services, allocation and funding mechanisms, including, but not limited to, competitive approaches, performance-based allocations, and sources of data for measurement.

(i) (1) For the 2006–07 fiscal year, the department may implement this division by all-county letters or other similar instructions, and need not comply with the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Commencing with the 2007–08 fiscal year, the department may implement this section by emergency regulations, adopted pursuant to paragraph (2).

(2) Regulations adopted by the department pursuant to this division 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 division shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department. Nothing in this paragraph shall be interpreted to prohibit the department from adopting subsequent amendments on a nonemergency basis or as emergency regulations in accordance with the standards set forth in Section 11346.1 of the Government Code.

(j) This division shall become inoperative two years following the date that the program is first implemented, and shall be repealed on July 1, 2009, unless a later-enacted statute, that is enacted before July 1, 2009, deletes or extends that date.

SEC. 24. Section 129856 is added to the Health and Safety Code, to read:

129856. (a) Contingent on an appropriation in the annual Budget Act, the office shall establish a program for training Fire and Life Safety Officers. The goal of this program shall be to provide a sufficient number of qualified persons to facilitate the timely performance of the office's duties and responsibilities relating to the review of plans and specifications pertaining to the design and observation of construction of hospital buildings described in paragraphs (2) and (3) of subdivision

(b) of Section 129725, in order to ensure compliance with applicable facility design and construction codes and standards.

(b) The office shall prepare a comprehensive report on the training program setting forth its goals, objectives, and structure. The report shall include the number of Fire and Life Safety Officers to be trained annually, a timeline for training completion, a process for gathering information to evaluate the training programs efficiency that includes dropout and retention rates, and a mechanism to annually assess the need for the training program to continue. The report shall be submitted to the Joint Legislative Budget Committee by April 1, 2007.

SEC. 25. Section 1611.5 of the Unemployment Insurance Code is amended to read:

1611.5. Notwithstanding Section 1611, the Legislature may appropriate from the Employment Training Fund an amount specified in the annual Budget Act to fund the local assistance portion of welfare-to-work activities under the CalWORKs program, provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as administered by the State Department of Social Services.

SEC. 26. Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Sections 294 and 295, notice of the hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the

child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, community care facility, or foster family agency having the physical custody of the child.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any

child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided.

Whether or not the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and, where relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or legal guardian. The court shall also inform the parent or legal guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the child was under the age of three years on the date of the initial removal, or is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under the age of three years on the date of initial removal or is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group, as described in paragraph (3) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and

the best interest of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interest of each child to schedule a hearing pursuant to Section 366.26 in 120 days for some or all of the members of the sibling group.

If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (b) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or legal guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

If the child is not returned to his or her parent or legal guardian, the court shall determine whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian. The court shall order that those services be initiated, continued, or terminated.

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to subdivision (a) of Section 361.5. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the

child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1), (2), or (3) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court may not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Order that a hearing be held within 120 days, pursuant to Section 366.26, but only if the court does not continue the case to the permanency planning review hearing and there is clear and convincing evidence that reasonable services have been provided or offered to the parents or legal guardians.

(3) Order that the child remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency that adoption is not in the best interest of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child and may not preclude a different recommendation at a later date if the child's circumstances change.

If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(1) Current search efforts for an absent parent or parents or legal guardians.

(2) A review of the amount of and nature of any contact between the child and his or her parents or legal guardians and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purpose of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(5) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange.

(7) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program or the Kin-GAP Plus program, as provided for in Article 4.5 (commencing with Section 11360) and Article 4.75 (commencing with Section 11380) of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(*l*) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(m) The implementation and operation of the amendments to subdivisions (c) and (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 27. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment.

The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason, as described in paragraph (2) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in foster care. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(5) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the motivation for seeking adoption or legal guardianship, and a statement from the child concerning placement and the adoption or legal guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(c) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a legal guardianship is

established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program or the Kin-GAP Plus program, as provided for in Article 4.5 (commencing with Section 11360) and Article 4.75 (commencing with Section 11380) of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(e) The implementation and operation of the amendments to subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 27.1. Section 10507 is added to the Welfare and Institutions Code, to read:

10507. (a) The department shall estimate the costs for county administration of human services programs using county-specific cost factors in the programs' budgeting methodology.

(b) County-specific cost factors shall be estimated using a county survey process that requires county certification of reasonable costs, and review by the department to determine that those costs are reasonable and necessary to meet program requirements and objectives.

(c) No later than November 1, 2006, the department, in consultation with the County Welfare Directors Association, shall develop the survey instrument and process to incorporate actual reasonable county cost factors to administer human services programs. The survey shall include, but shall not be limited to, salaries and benefits, operating support, electronic data processing, staff development, and other costs reasonable and necessary to meet program requirements and objectives. The process shall include an assessment of how state requirements and county operational practices affect the costs of county administration of human services programs.

(d) Commencing with the May Revision of the 2007–08 budget, and annually thereafter, the department shall identify in its budget documents the estimates developed pursuant to this section and the difference between these estimates and the proposed funding levels.

SEC. 27.2. Section 10533 is added to the Welfare and Institutions Code, to read:

10533. The department shall establish a CalWORKs county peer review process, and shall implement this process first in pilot counties, and then statewide no later than July 1, 2007. The peer review process

shall include individual CalWORKs data reviews of counties, based on existing data. Counties shall receive programmatic technical assistance from teams made up of state and peer-county administrators to assist with implementing best practices to improve their performance and make progress toward meeting established state performance goals, as specified in Chapter 1.5 (commencing with Section 10540) and Section 15204.6.

SEC. 27.3. Section 10534 is added to the Welfare and Institutions Code, to read:

10534. (a) Each county shall perform a comprehensive review of its existing CalWORKs plan developed pursuant to Section 10531, and shall prepare and submit to the department a plan addendum detailing how the county will meet the goals defined in Section 10540, while taking into consideration the work participation requirements of the federal Deficit Reduction Act of 2005 (P.L.109-171). The plan shall include immediate and long-range actions that the county will take to improve work participation rates among CalWORKs applicants and recipients. The plan addendum, at a minimum, shall include all of the following:

(1) How the county will address increased participation in the following areas:

(A) Providing upfront engagement activities.

(B) Reengaging noncompliant or sanctioned individuals.

(C) Providing activities to encourage participation and to prevent families from going into sanction status.

(D) Achieving full engagement by individuals who are required to participate, and who are partially participating, not participating, or are between activities.

(E) Other activities designed to increase the county's federal work participation rate.

(2) A description of how the county will utilize the single allocation and other funding that will be committed to the county's CalWORKs program.

(3) A description of anticipated outcomes, including the number of families affected, that will result in county program improvements, and the projected impact on the county's federal work participation rate.

(4) A proposed plan to measure progress in achieving the anticipated outcomes pursuant to paragraph (3) on a quarterly basis.

(5) A description of how the county will collaborate with local agencies, including, but not limited to, local workforce investment boards, community colleges, and adult education and regional occupational programs that provide activities that meet federal work participation requirements and provide participants with skills that will help them achieve long-term self-sufficiency.

(b) Each county shall submit its plan addendum to the department no later than 90 days after the department issues guidance for the addendum by all-county letter. Each addendum shall include a certification that the county board of supervisors has been briefed regarding the contents of the plan.

(c) Within 30 days of receipt of a county plan addendum, the department shall either certify that the plan includes the elements required by subdivision (a) and that the descriptions are consistent with state, and to the extent applicable, federal law, or notify the county that the addendum is not complete or consistent, stating the reasons therefor.

(d) Pending certification of the plan addendum, a county shall continue to operate its program according to its existing plan, and may implement changes consistent with the goals of the activities to be described by the addendum as specified in subdivision (a).

(e) A county shall submit an addendum to the county plan, as required by this chapter once every three years, as required by the department.

SEC. 27.5. Section 10535 is added to the Welfare and Institutions Code, to read:

10535. Notwithstanding any other provision of law, of the amount appropriated in Item 5180-101-0890 in the Budget Act of 2006, ninety million dollars ($90,000,000) in federal Temporary Assistance for Needy Families block grant funds for the CalWORKs program shall remain eligible for expenditure until June 30, 2008.

SEC. 27.6. Section 10540.6 is added to the Welfare and Institutions Code, to read:

10540.6. Commencing no later than April 1, 2007, the department, on a periodic, but no less frequently than a quarterly basis, shall publish available data reported by counties regarding caseload characteristics, welfare-to-work performance outcomes, engagement rates, and other outcomes consistent with Sections 10534 and 10540.5. The department shall consult with the County Welfare Directors Association, legislative staff, and other stakeholders, when developing the data sources, methodology, and format for the data to be published.

SEC. 27.7. Section 10544 of the Welfare and Institutions Code is amended to read:

10544. (a) If the department finds that a county is experiencing significantly worsened outcomes, it shall report this finding to the Chairs of the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate Committee on Health and Human Services, and the Assembly Committee on Human Services.

(b) If the state does not achieve the outcomes required by federal law and, as a result, is subject to a fiscal penalty, the penalty shall be shared equally by the state and the counties after exhaustion of all reasonable

and available federal administrative remedies. If a county's single allocation pursuant to Section 15204.2 is reduced by the state to offset the county's share of any federal penalty imposed pursuant to this section, the county shall be required to utilize county general funds to replace the offset amount, so that total funding remains equal to the county's single allocation. These funds shall be in addition to the funds required to meet the maintenance of effort requirement pursuant to Section 15204.4. Only those counties that have failed to meet the federal requirements shall be required to share in the fiscal penalty imposed on the state. Those counties' share of the penalty imposed on the state shall equal 50 percent of that penalty. Each county's share of the penalty shall be based, in consultation with the County Welfare Directors Association, on the county's degree of performance that contributes to the failure to meet the federal requirement.

(c) A county may be provided relief, in whole or in part, from a penalty imposed pursuant to subdivision (b) if the department determines that there were circumstances beyond the control of the county. A county may also be provided relief based on the degree of success or progress in meeting federal requirements, and, to the extent that there are differences between state and federal program requirements, the degree of success in meeting state participation requirements. Any adjustment made pursuant to this subdivision shall be reported to the chair of the Joint Legislative Budget Committee. If a county is granted relief, that portion of the total penalty shall not be imposed on the other counties that failed to meet the federal requirements.

(d) A county that fails, without good cause, to submit accurate and timely data used to measure work participation, as required by the department, shall be deemed to have failed to meet applicable federal requirements, and to the extent that there are differences between state and federal program requirements, the degree of success in meeting state participation requirements. For purposes of this subdivision, good cause shall include, but shall not be limited to, the lack of accurate, timely, and complete instructions from the department.

(e) The amendments made to subdivision (b) by adding this subdivision clarify existing law, as enacted by Assembly Bill 1542 (Ch. 270, Stats. 1997).

SEC. 28. Section 10553.25 of the Welfare and Institutions Code is amended to read:

10553.25. (a) The department shall make an annual allocation of funds appropriated for the purpose of this subdivision to all eligible federally recognized American Indian tribes with reservation lands or rancherias located in this state that administer a program pursuant to the

federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

(b) The department shall collect and maintain specific available data for each tribe in this state for federal fiscal year 1994 for the purpose of the implementation and administration of the federal program.

(c) The department shall submit requests on behalf of tribes, for all applicable federal waivers and exemptions for all eligible federally recognized American Indian tribes located on reservations and rancherias, or for consortia of tribes, for the administration of the CalWORKs program, whether or not tribes administer an approved Temporary Assistance for Needy Families (TANF) plan, independent of any county participation, demographics, or circumstances.

(d) Each county, in the administration of the CalWORKs program, shall consult with all eligible federally recognized tribes within any portion of the county, for the purpose of providing American Indian recipients with equitable access to assistance under the state program or an approved tribal TANF program if implemented in the county, and for the consideration of transfers of administration responsibilities to those entities.

(e) Beginning July 1, 2006, state funding for tribal TANF programs provided pursuant to this section shall be based on the caseload used to develop the Tribal Family Assistance Grant negotiated with the Administration for Children and Families and the state. Tribal TANF programs shall do both of the following:

(1) Report to the department, on a quarterly basis, the aggregated data, as reported by tribal TANF programs to the federal Department of Health and Human Services pursuant to paragraph (2) of subdivision (b) of Part 286.255 of Title 45 of the Code of Federal Regulations, and any additional federal data required to meet the state maintenance of effort (MOE) reporting requirements.

(2) Provide the department, on an annual basis, corresponding with the program's fiscal year, a certified audit in accordance with the requirements of the federal Office of Management and Budget (OMB) Circular A-133.

(f) In no case shall the state match under subdivision (e) exceed the original state share designated for the tribal TANF program in the original negotiation of 1994 caseload counts.

(g) The department shall amend the state TANF plan to reflect that the state adopts by reference the federally approved financial eligibility criteria established by each tribal TANF program as the state's financial eligibility criteria when determining eligibility for state funded services provided by tribal TANF programs.

(h) Beginning July 1, 2005, the department shall not reduce county single allocations to offset funding provided for tribal TANF programs. The department may adjust county single allocations to reflect the actual caseload declines associated with the number of Native American cases transferring from the counties to the tribal TANF programs.

SEC. 29.01. Section 10609.9 is added to the Welfare and Institutions Code, to read:

10609.9. (a) (1) Commencing with the 2006 Budget Act, of the amounts appropriated in Program 25.30-Children and Adult Services and Licensing, in Items 5180-151-0001 and 5180-151-0890 of the annual Budget Act, ninety-eight million dollars ($98,000,000) is annually designated for needed outcome improvements identified in the county system improvement plans. These funds shall be allocated based on a methodology developed by the department, in consultation with the County Welfare Directors Association. Funds appropriated for child welfare services outcome improvements shall be flexible and may be spent on local priorities identified in the county's system improvement plan, including, but not limited to, any of the following:

(A) Reducing high worker caseloads.

(B) Clerical or paraprofessional support.

(C) Direct services to clients, such as mental health or substance abuse treatment.

(D) Prevention and early intervention services, such as differential response.

(E) Permanency and youth transition practice improvements.

(F) Any other investments to better serve children and families, which may include services to support older youth in foster care, such as mentoring services.

(2) A county is not required to provide a match of the funds described in this subdivision if the county appropriates the required full match for the county's child welfare services program exclusive of the funds received pursuant to this subdivision.

(3) It is the intent of the Legislature that these funds be linked to improved outcomes, and provided to counties on an ongoing basis.

(b) By February 1, 2007, the department shall work with the County Welfare Directors Association, legislative staff, and members of organizations that represent social workers, to develop and submit to the Legislature a proposed methodology for budgeting the child welfare services program to meet the program requirements and outcomes identified in Section 10601.2. It is the intent of the Legislature that this methodology be implemented in the Budget Act of 2007.

(c) In developing the new methodology, the department shall consider available research, including the study required by Section 10609.5,

industry standards developed by recognized child welfare organizations and accrediting bodies, budgeting methodologies used in other states, as well as available research and information regarding budgeting methodologies in support of best practices and improved outcomes.

SEC. 29.1. Section 11216 is added to the Welfare and Institutions Code, to read:

11216. (a) Notwithstanding any other provision of law, federal Temporary Assistance for Needy Families block grant funds or state maintenance of effort funds may only be expended outside of the CalWORKs program if the expenditure does not result in additional caseload to be included in the calculation of the state's Temporary Assistance for Needy Families program caseload reduction credit.

(b) Notwithstanding any other provision of law, the amount of federal Temporary Assistance for Needy Families block grant funds authorized for any program except the CalWORKs program shall not be increased above the amount appropriated in the annual Budget Act.

SEC. 29.2. Section 11320.32 is added to the Welfare and Institutions Code, to read:

11320.32. (a) The department shall administer a voluntary Temporary Assistance Program (TAP) for current and future CalWORKs recipients who meet the exemption criteria for work participation activities set forth in Section 11320.3, and are not single parents who have a child under the age of one year. Temporary Assistance Program recipients shall be entitled to the same assistance payments and other benefits as recipients under the CalWORKs program. The purpose of this program is to provide cash assistance and other benefits to eligible families without any federal restrictions or requirements and without any adverse impact on recipients. Subject to the conditions specified in subdivision (b), the Temporary Assistance Program shall commence no later than April 1, 2007.

(b) The department shall review the emergency federal regulations concerning the Temporary Assistance for Needy Families program required by subdivision (c) of Section 7102 of the Deficit Reduction Act of 2005 (P.L. 109-171). If the department finds, upon reviewing these regulations and consulting with the Legislature and CalWORKs program stakeholders, that the Temporary Assistance Program provided for by this section would not be feasible or meet the Legislature's stated purposes, it may suspend implementation of the Temporary Assistance Program until October 1, 2007. In order to suspend implementation, the department shall first provide written justification to the Joint Legislative Budget Committee explaining why the Temporary Assistance Program would be infeasible.

(c) CalWORKs recipients who meet the exemption criteria for work participation activities set forth in subdivision (b) of Section 11320.3, and are not single parents with a child under the age of one year, shall have the option of receiving grant payments, child care, and transportation services from the Temporary Assistance Program. The department shall notify all CalWORKs recipients and applicants meeting the exemption criteria specified in subdivision (b) of Section 11320.3, except for single parents with a child under the age of one year, of their option to receive benefits under the Temporary Assistance Program. Absent written indication that these recipients or applicants choose not to receive assistance from the Temporary Assistance Program, the department shall enroll CalWORKs recipients and applicants into the program. However, exempt volunteers shall remain in the CalWORKs program unless they affirmatively indicate, in writing, their interest in enrolling in the Temporary Assistance Program. A Temporary Assistance Program recipient who no longer meets the exemption criteria set forth in Section 11320.3 shall be enrolled in the CalWORKs program.

(d) Funding for grant payments, child care, transportation, and eligibility determination activities for families receiving benefits under the Temporary Assistance Program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under clause (i) of subparagraph (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42 of the United States Code, up to the caseload level equivalent to the amount of funding provided for this purpose in the annual Budget Act.

(e) It is the intent of the Legislature that recipients shall have and maintain access to the hardship exemption and the services necessary to begin and increase participation in welfare-to-work activities, regardless of their county of origin, and that the number of recipients exempt under subdivision (b) of Section 11320.3 not significantly increase due to factors other than changes in caseload characteristics. All relevant state law applicable to CalWORKs recipients shall also apply to families funded under this section. Nothing in this section modifies the criteria for exemption in Section 11320.3.

(f) To the extent that this section is inconsistent with federal regulations due to be issued June 30, 2006, regarding implementation of the Deficit Reduction Act of 2005, the department may amend the funding structure for exempt families to ensure consistency with the June 30 regulations, not later than 30 days after providing written notification to the chair of the Joint Legislative Budget Committee and the chairs of the appropriate policy and fiscal committees of the Legislature.

SEC. 29.3. Section 11327.5 of the Welfare and Institutions Code is amended to read:

11327.5. (a) Sanctions shall be imposed in accordance with subdivision (b) or (c), as appropriate, if an individual has failed or refused to comply with program requirements without good cause and conciliation efforts, as described in Section 11327.4, have failed.

(b) The sanctions provided for in subdivisions (c) and (d) shall not apply to an individual who is exempt from the requirements of this article but is voluntarily participating in the program. If such an individual engages in conduct that would bring about the actions provided for in subdivisions (c) and (d), except for his or her status as a voluntary program participant, the individual shall not be given priority so long as other individuals are actively seeking to participate.

(c) Financial sanctions for failing or refusing to comply with program requirements without good cause shall cause a reduction in the family's grant by removing the noncomplying family member from the assistance unit for a period of time specified in subdivision (d).

(1) For families that qualify for aid due to unemployment of the family's primary wage earner, the sanctioned parent shall be removed from the assistance unit. Unless the spouse or the family's second parent meets the provisions of subparagraph (A) of paragraph (2), if the sanctioned parent's spouse or the family's second parent is not participating in the program, both the sanctioned parent and the spouse or second parent shall be removed from the assistance unit. The county shall notify the spouse of the noncomplying participant or second parent in writing at the commencement of conciliation of his or her own opportunity to participate and the impact on sanctions of that participation.

(2) (A) Except as provided in subparagraph (B), exemption criteria specified in Section 11320.3, conciliation specified in Section 11327.4, and good cause criteria specified in Section 11320.31 and subdivision (f) of Section 11320.3 shall apply to the sanctioned parent's spouse or the family's second parent.

(B) Exemption criteria specified in paragraphs (5) and (6) of subdivision (b) of Section 11320.3 do not apply to a spouse or second parent who is participating to avoid the sanction of the noncomplying parent.

(C) If the sanctioned parent's spouse or the family's second parent chooses to participate to avoid the noncomplying parent's sanction, subsequently fails or refuses to participate without good cause, and does not conciliate, he or she shall be removed from the assistance unit for a period of time specified in subdivision (d).

(D) If the sanctioned parent's spouse or the family's second parent is under his or her own sanction at the time of the first parent's sanction, the spouse or second parent shall not be provided the opportunity to avoid the first parent's sanction until the spouse or second parent's sanction is completed.

(3) For families that qualify due to the absence or incapacity of a parent, only the noncomplying parent shall be removed from the assistance unit.

(4) If the noncomplying individual is the only dependent child in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.

(5) If the noncomplying individual is one of several dependent children in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.

(d) An instance of noncompliance without good cause shall result in a financial sanction. This sanction shall terminate at any point if the noncomplying participant performs the activity or activities he or she previously refused to perform.

(e) Sanctions shall become effective on the first day of the first payment-month that the sanctioned individual's needs are removed from aid under this chapter.

(f) In the event this section conflicts with federal law, the department shall adopt regulations to conform to federal law.

SEC. 29.31. Section 11363 of the Welfare and Institutions Code is amended to read:

11363. (a) Aid in the form of Kin-GAP shall be provided under this article on behalf of any child under 18 years of age who meets all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300.

(2) Has been living with a relative for at least 12 consecutive months.

(3) Has had a kinship guardianship with that relative established as the result of the implementation of a permanent plan pursuant to Section 366.26.

(4) Has had his or her dependency dismissed after January 1, 2000, pursuant to Section 366.3, concurrently or subsequent to the establishment of the kinship guardianship.

(b) Kin-GAP payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met.

(c) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is

also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of 12 months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3 and the court terminates dependency jurisdiction.

(d) This section shall become inoperative on October 1, 2006, and as of that date is repealed, but only if the department suspends the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program pursuant to subdivision (b) of Section 11380.1.

SEC. 29.32. Section 11363 is added to the Welfare and Institutions Code, to read:

11363. (a) Aid in the form of Kin-GAP shall be provided under this article on behalf of any child under 18 years of age who meets all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300, or ward of the juvenile court pursuant to Section 601 or 602.

(2) Has been living with a relative for at least 12 consecutive months.

(3) Has had a kinship guardianship wit that relative established as the result of the implementation of a permanent plan pursuant to Section 366.26.

(4) Has had his or her dependency dismissed after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(b) Kin-GAP payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met.

(c) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive a Kin-GAP on behalf of the child pursuant to this article. A new period of 12 months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3 and the court terminates dependency jurisdiction.

(d) This section shall become operative on October 1, 2006, but only if the department suspends the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program pursuant to subdivision (b) of Section 11380.1.

SEC. 29.4. Section 11364 of the Welfare and Institutions Code is amended to read:

11364. (a) Notwithstanding subdivision (a) of Section 11450, the rate paid on behalf of children eligible for a Kin-GAP payment shall equal 100 percent of the rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, of Section 11461.

(b) This section shall remain operative until October 1, 2006, and as of that date is repealed but only if the department suspends the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program, pursuant to subdivision (b) of Section 11380.1.

SEC. 29.5. Section 11364 is added to the Welfare and Institutions Code, to read:

11364. (a) Notwithstanding subdivision (a) of Section 11450, the rate paid on behalf of children eligible for a Kin-GAP payment shall equal 100 percent of the rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, of Section 11461. In addition the rate paid for a child eligible for a Kin-GAP payment shall be increased by an amount equal to the clothing allowances, as set forth in subdivision (f) of Section 11461, to which the child would have been entitled while in foster care, including any applicable rate adjustments. In addition, if a child, while in foster care, received a specialized care increment, as defined in paragraph (1) of subdivision (e) of Section 11461, the Kin-GAP rate shall be adjusted by the specialized care increment amount, including any applicable rate adjustments.

(b) This section shall become operative on October 1, 2006, but only if the department suspends the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program, pursuant to subdivision (b) of Section 11380.1.

SEC. 29.6. Section 11367 of the Welfare and Institutions Code is amended to read:

11367. Kin-GAP, in an amount equal to the applicable regional per-child CalWORKs grant, shall be paid by the state. The balance of Kin-GAP shall be paid in equal portions by the state and the counties. The state share of benefits and administration of the Kin-GAP program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under Section 609(s)(7)(B)(i) of Title 42 of the United States Code.

SEC. 30. Article 4.75 (commencing with Section 11380) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 4.75. Kinship Guardianship Assistance Payment Plus Program

11380. Effective October 1, 2006, the department shall establish a Kinship Guardianship Assistance Payment Plus Program (Kin-GAP Plus) as provided in this article.

11380.1. (a) The Legislature finds and declares that the Kinship Guardianship Assistance Payment Plus Program is intended to enhance family preservation and stability by recognizing that many children are in long-term, stable placements with relatives, that these placements are the permanent plan for the child, that dependencies can be dismissed pursuant to Section 366.3 with legal guardianship granted to the relative, and that there is no need for continued governmental intervention in the family life through ongoing, scheduled court and social services supervision of the placement. This program is a voluntary alternative to the Kin-GAP program, and the department, in conjunction with county welfare departments, under authority of Section 11380.55 shall provide information regarding the Kin-GAP Plus Program to all current Kin-GAP recipients and new applicants. The Legislature finds and declares that the Kin-GAP and Kin-GAP Plus Programs result in savings for counties by reducing costs for child welfare services, foster care, and court costs that more than offset the costs associated with the programs.

(b) The department shall review the emergency federal regulations concerning the Temporary Assistance for Needy Families program required by subdivision (c) of Section 7102 of the federal Deficit Reduction Act of 2005 (P.L. 109-171). If the department finds, upon reviewing these regulations, and consulting with the Legislature and CalWORKs and Kin-GAP program stakeholders, that the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program specified in subdivision (a) would not be advantageous to the state, it may suspend the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program until October 1, 2007. In order to suspend the voluntary enrollment, the State Department of Social Services shall first provide written justification to the Joint Legislative Budget Committee explaining why voluntary enrollment would be infeasible.

11380.15. For purposes of this article, the following definitions shall apply:

(a) "Kinship Guardianship Assistance Payments Plus (Kin-GAP Plus)" means the aid provided on behalf of children in kinship care under the terms of this article.

(b) "Kinship guardian" means a person who (1) has been appointed the legal guardian of a dependent child pursuant to Section 366.26, or has had a legal guardianship with a relative established as part of

permanency proceeding pursuant to paragraph (4) of subdivision (b) of Section 727.3, and (2) is a relative of the child.

(c) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

11380.2. (a) Aid in the form of Kin-GAP Plus shall be provided under this article on behalf of any child younger than 18 years of age who meets all of the following conditions:

(1) The child has been adjudged a dependent child of the juvenile court pursuant to Section 300, or a ward of the juvenile court pursuant to Section 601 or 602.

(2) The child has been living with a relative for at least 12 consecutive months.

(3) The child has had a kinship guardianship with that relative established as the result of the implementation of a permanent plan pursuant to Section 366.26 or Section 728.

(4) The child has had his or her dependency dismissed after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (e) of Section 728, concurrently or subsequent to the establishment of the kinship guardianship.

(b) Kin-GAP Plus payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met.

(c) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP Plus; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP Plus on behalf of the child pursuant to this article. A new period of 12 months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3 and the court terminates dependency jurisdiction.

11380.25. Notwithstanding subdivision (a) of Section 11450, the rate paid on behalf of children eligible for a Kin-GAP Plus payment shall equal 100 percent of the rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, and the amount payable under subdivision (f) of Section 11461, and under subdivision (e) of Section 11461, to the extent that benefits under subdivision (e) of that section were received immediately prior to enrollment in the Kin-GAP Program or the Kin-GAP Plus Program.

11380.35. Kin-GAP Plus shall be paid to the kinship guardian on a per child basis.

11380.4. A child who is eligible to receive Medi-Cal benefits with no share of cost shall maintain that eligibility, notwithstanding the receipt of Kin-GAP Plus by his or her kinship guardian.

11380.45. Kin-GAP Plus, in an amount equal to the applicable regional per-child CalWORKs grant, shall be paid by the state. The balance of Kin-GAP Plus payments, as specified in Section 11380.25, shall be paid in equal portions by the state and the counties. The state's share of benefits and administration of the Kin-GAP Plus program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code.

11380.5. (a) The department shall seek any waiver from the Secretary of the United States Department of Health and Human Services that is necessary to implement this article.

(b) Any provision of this article that may only be implemented pursuant to a waiver described in subdivision (a) shall only be operative during the period for which the waiver is granted, as stated in a declaration that shall be executed by the director when the waiver is obtained.

11380.55. (a) Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, through May 1, 2007, the department may implement the applicable provisions of the Kin-GAP Plus Program through all-county letters or similar instructions from the director.

(b) The director shall adopt emergency regulations as otherwise necessary to implement the applicable provisions of the Kin-GAP Plus Program no later than May 1, 2007. The adoption of regulations implementing this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by 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 shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

11380.6. Income to the child, including the Kin-GAP Plus payment, shall not be considered income to the kinship guardian for purposes of determining the kinship guardian's eligibility for any other aid program, unless required by federal law as a condition of the receipt of federal financial participation.

11380.65. (a) A person who is a kinship guardian under this article, and who has met the requirements of Section 361.4, shall be exempt from Chapter 4.6 (commencing with Section 10830) of Part 2 governing

the statewide fingerprint imaging system. A guardian who is also an applicant for or a recipient of benefits under the CalWORKs program, Chapter 2 (commencing with Section 11200) of Part 3, or the Food Stamp Program, Chapter 10 (commencing with Section 18900) of Part 6 shall comply with the statewide fingerprint imaging system requirements applicable to those programs.

(b) Any exemptions exercised pursuant to this section shall be implemented in accordance with Section 11380.55.

11380.7. Three years after the initial implementation date of this article, the department shall report to the Legislature information on the outcomes of the Kin-GAP Plus 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 Plus Program.

(b) The numbers and types of disruptions to the Kin-GAP Plus Program, including subsequent substantiated child abuse reports, child welfare services, and cases where children return to foster care.

(c) Rates of Kin-GAP Plus exits from foster care compared to relative adoption and return to parents.

(d) A comparison to the results of the Kin-GAP Program.

11380.75. (a) Each county that formally had court-ordered jurisdiction under Section 300 over a child receiving benefits under the Kin-GAP Plus Program shall be responsible for paying the child's aid regardless of where the child actually resides, provided that the child resides in California.

(b) Notwithstanding any other provision of law, when a child receiving benefits under the CalWORKs program or the AFDC-FC foster care program becomes eligible for benefits under the Kin-GAP Plus Program during any month, the child shall continue to receive benefits under the CalWORKs program or the AFDC-FC foster care program, as appropriate, to the end of that calendar month, and Kin-GAP Plus payments shall begin the first day of the following month.

11380.8. The following shall apply to any child in receipt of Kin-GAP Plus benefits:

(a) He or she is eligible to request and receive independent living services pursuant to Section 10609.3.

(b) He or she may retain cash savings, not to exceed ten thousand dollars ($10,000), including interest, in addition to any other property accumulated pursuant to Section 11257 or 11257.5.

SEC. 31. Section 11403.3 of the Welfare and Institutions Code is amended to read:

11403.3. (a) (1) Subject to subdivision (b), a transitional housing placement program, as defined in Section 11400, that provides

transitional housing services to an eligible youth in a facility licensed pursuant to subdivision (a) of Section 1559.110 of the Health and Safety Code, shall be paid a monthly rate that is 75 percent of the average foster care expenditures for foster youth 16 to 18 years of age, inclusive, in group home care in the county in which the program operates.

(2) Subject to subdivision (c), a transitional housing placement program, as defined in Section 11400, that provides transitional housing services to an eligible youth in a facility certified pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code, shall be paid a monthly rate that is 70 percent of the average foster care expenditures for foster youth 16 to 18 years of age, inclusive, in group home care in the county in which the program operates.

(b) Payment to a transitional housing placement program for transitional housing services provided to a person described in paragraph (1) of subdivision (a) of Section 11403.2 shall be subject to the following conditions:

(1) An amount equal to the base rate, as defined in subdivision (d), shall be paid for transitional housing services provided.

(2) Any additional amount payable pursuant to subdivision (a) shall be contingent on both of the following:

(A) The availability of moneys in the Transitional Housing for Foster Youth Fund established in Section 11403.4, or appropriated for this purpose in the annual Budget Act for the cost of the program, to pay the state share of cost of the additional amount.

(B) Election by the county placing the youth in the transitional housing placement program to participate in the costs of the additional amount, pursuant to subdivision (g).

(c) (1) Payment to a transitional housing placement program for transitional housing services provided pursuant to paragraph (2) of subdivision (a) of Section 11403.2 shall be subject to the following conditions:

(A) Any Supportive Transitional Emancipation Program (STEP) payment payable pursuant to Section 11403.1 shall be paid for transitional housing services provided.

(B) Any amount payable pursuant to subdivision (a) to a transitional housing placement program for services provided to a person described in paragraph (2) of subdivision (a) of Section 11403.2 shall be paid contingent on the availability of moneys appropriated for this purpose in the annual Budget Act for the cost of the program.

(2) The department may limit new participants into transitional housing placement programs if costs for this subdivision are projected to exceed moneys appropriated for this purpose in the annual Budget Act.

(d) (1) As used in this section, "base rate" means the rate a transitional housing placement program was approved to receive on June 30, 2001. If a program commences operation after this date, the base rate shall be the rate the program would have received if it had been operational on June 30, 2001.

(2) Notwithstanding subdivision (a), no transitional housing placement program with an approved rate on July 1, 2001, shall receive a lower rate than its base rate.

(e) Any reductions in payments to a transitional housing placement program pursuant to the implementation of paragraph (2) of subdivision (b) or subparagraph (B) of paragraph (1) of subdivision (c) shall not preclude the program from acquiring from other sources, additional funding necessary to provide program services.

(f) The department shall develop, implement, and maintain a ratesetting system schedule for transitional housing placement programs pursuant to subdivisions (a) to (d), inclusive.

(g) (1) Funding for the rates payable under this section for persons described in paragraph (1) of subdivision (a) of Section 11403.2 shall be subject to a sharing ratio of 40 percent state and 60 percent county share of nonfederal funds.

(2) Funding for the rates payable under this section for persons described in paragraph (2) of subdivision (a) of Section 11403.2 shall be subject to a sharing ratio of 100 percent state and 0 percent county funds.

SEC. 31.1. Section 11450 of the Welfare and Institutions Code, as amended by Section 18 of Chapter 147 of the Statutes of 1999, is amended to read:

11450. (a) (1) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, and notwithstanding the minimum basic standards of adequate care specified in Section 11452, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1 shall be deducted from the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2). In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2), plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1	$ 326
2	535
3	663
4	788
5	899
6	1,010
7	1,109
8	1,209
9	1,306
10 or more	1,403

If, when, and during those times that the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to that increase or decrease by the United States government, provided that no increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(2) The sums specified in paragraph (1) shall not be adjusted for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, nor shall that amount be included in the base for calculating any cost-of-living increases for any fiscal year thereafter. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother for the month in which the birth is anticipated and for the three-month period immediately prior to the month in which the birth is anticipated in the amount which would otherwise be paid to one person, as specified in subdivision (a), if the mother, and child if born, would have qualified for aid under this chapter. Verification of pregnancy shall be required as a condition of eligibility for aid under this subdivision. Aid shall also be paid to a pregnant woman with no other children in the amount which would otherwise be paid to one person under subdivision (a) at any time after verification of pregnancy if the pregnant woman is also eligible for the Cal-Learn Program described in Article 3.5 (commencing with

Section 11331) and if the mother and child, if born, would have qualified for aid under this chapter.

(c) The amount of forty-seven dollars ($47) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If that payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which, when added to the child's income, is equal to the rate specified in Section 11460, 11461, 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(f) After a family has used all available liquid resources, both exempt and nonexempt, in excess of one hundred dollars ($100), the family shall also be entitled to receive an allowance for nonrecurring special needs.

(1) An allowance for nonrecurring special needs shall be granted for replacement of clothing and household equipment and for emergency housing needs other than those needs addressed by paragraph (2). These needs shall be caused by sudden and unusual circumstances beyond the control of the needy family. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs provided by this subdivision shall not exceed six hundred dollars ($600) per event.

(2) Homeless assistance is available to a homeless family seeking shelter when the family is eligible for aid under this chapter. Homeless assistance for temporary shelter is also available to homeless families which are apparently eligible for aid under this chapter. Apparent eligibility exists when evidence presented by the applicant or which is otherwise available to the county welfare department and the information provided on the application documents indicate that there would be eligibility for aid under this chapter if the evidence and information were verified. However, an alien applicant who does not provide verification of his or her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy, is not apparently eligible for purposes of this section.

A family is considered homeless, for the purpose of this section, when the family lacks a fixed and regular nighttime residence; or the family has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or the family is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. A family is also considered homeless for the purpose of this section if the family has received a notice to pay rent or quit. The family shall demonstrate that the eviction is the result of a verified financial hardship as a result of extraordinary circumstances beyond their control, and not other lease or rental violations, and that the family is experiencing a financial crisis that could result in homelessness if preventative assistance is not provided.

(A) (i) A nonrecurring special need of sixty-five dollars ($65) a day shall be available to families of up to four members for the costs of temporary shelter, subject to the requirements of this paragraph. The fifth and additional members of the family shall each receive fifteen dollars ($15) per day, up to a daily maximum of one hundred twenty-five dollars ($125). County welfare departments may increase the daily amount available for temporary shelter as necessary to secure the additional bedspace needed by the family.

(ii) This special need shall be granted or denied immediately upon the family's application for homeless assistance, and benefits shall be available for up to three working days. The county welfare department shall verify the family's homelessness within the first three working days and if the family meets the criteria of questionable homelessness established by the department, the county welfare department shall refer the family to its early fraud prevention and detection unit, if the county has such a unit, for assistance in the verification of homelessness within this period.

(iii) After homelessness has been verified, the three-day limit shall be extended for a period of time which, when added to the initial benefits provided, does not exceed a total of 16 calendar days. This extension of benefits shall be done in increments of one week and shall be based upon searching for permanent housing which shall be documented on a housing search form; good cause; or other circumstances defined by the department. Documentation of housing search shall be required for the initial extension of benefits beyond the three-day limit and on a weekly basis thereafter as long as the family is receiving temporary shelter benefits. Good cause shall include, but is not limited to, situations in which the county welfare department has determined that the family, to the extent it is capable, has made a good faith but unsuccessful effort to secure permanent housing while receiving temporary shelter benefits.

(B) A nonrecurring special need for permanent housing assistance is available to pay for last month's rent and security deposits when these payments are reasonable conditions of securing a residence, or to pay for up to two months of rent arrearages, when these payments are a reasonable condition of preventing eviction.

The last month's rent or monthly arrearage portion of the payment (1) shall not exceed 80 percent of the family's total monthly household income without the value of food stamps or special needs for a family of that size and (2) shall only be made to families that have found permanent housing costing no more than 80 percent of the family's total monthly household income without the value of food stamps or special needs for a family of that size.

However, if the county welfare department determines that a family intends to reside with individuals who will be sharing housing costs, the county welfare department shall, in appropriate circumstances, set aside the condition specified in clause (2) of the preceding paragraph.

(C) The nonrecurring special need for permanent housing assistance is also available to cover the standard costs of deposits for utilities which are necessary for the health and safety of the family.

(D) A payment for or denial of permanent housing assistance shall be issued no later than one working day from the time that a family presents evidence of the availability of permanent housing. If an applicant family provides evidence of the availability of permanent housing before the county welfare department has established eligibility for aid under this chapter, the county welfare department shall complete the eligibility determination so that the denial of or payment for permanent housing assistance is issued within one working day from the submission of evidence of the availability of permanent housing, unless the family has failed to provide all of the verification necessary to establish eligibility for aid under this chapter.

(E) (i) Except as provided in clauses (ii) and (iii), eligibility for the temporary shelter assistance and the permanent housing assistance pursuant to this paragraph shall be limited to one period of up to 16 consecutive calendar days of temporary assistance and one payment of permanent assistance. Any family that includes a parent or nonparent caretaker relative living in the home who has previously received temporary or permanent homeless assistance at any time on behalf of an eligible child shall not be eligible for further homeless assistance. Any person who applies for homeless assistance benefits shall be informed that the temporary shelter benefit of up to 16 consecutive days is available only once in a lifetime, with certain exceptions, and that a break in the consecutive use of the benefit constitutes permanent exhaustion of the temporary benefit.

(ii) A family that becomes homeless as a direct and primary result of a state or federally declared natural disaster shall be eligible for temporary and permanent homeless assistance.

(iii) A family shall be eligible for temporary and permanent homeless assistance when homelessness is a direct result of domestic violence by a spouse, partner, or roommate; physical or mental illness that is medically verified that shall not include a diagnosis of alcoholism, drug addiction, or psychological stress; or, the uninhabitability of the former residence caused by sudden and unusual circumstances beyond the control of the family including natural catastrophe, fire, or condemnation. These circumstances shall be verified by a third-party governmental or private health and human services agency and homeless assistance payments based on these specific circumstances may not be received more often than once in any 12-month period. A county may require that a recipient of homeless assistance benefits who qualifies under this paragraph for a second time in a 24-month period participate in a homelessness avoidance case plan as a condition of eligibility for homeless assistance benefits.

(iv) The county welfare department shall report to the department through a statewide homeless assistance payment indicator system, necessary data, as requested by the department, regarding all recipients of aid under this paragraph.

(F) The county welfare departments, and all other entities participating in the costs of the AFDC program, have the right in their share to any refunds resulting from payment of the permanent housing. However, if an emergency requires the family to move within the 12-month period specified in subparagraph (E), the family shall be allowed to use any refunds received from its deposits to meet the costs of moving to another residence.

(G) Payments to providers for temporary shelter and permanent housing and utilities shall be made on behalf of families requesting these payments.

(H) The daily amount for the temporary shelter special need for homeless assistance may be increased if authorized by the current year's Budget Act by specifying a different daily allowance and appropriating the funds therefor.

(I) No payment shall be made pursuant to this paragraph unless the provider of housing is a commercial establishment, shelter, or person in the business of renting properties who has a history of renting properties.

(g) The department shall establish rules and regulations assuring the uniform application statewide of this subdivision.

(h) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(i) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a).

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

(j) For children receiving Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) of Chapter 2, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month, which, when added to the child's income, is equal to the rate specified in Section 11364.

SEC. 31.2. Section 11450 of the Welfare and Institutions Code, as amended by Section 328 of Chapter 62 of the Statutes of 2003, is amended to read:

11450. (a) (1) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, and notwithstanding the minimum basic standards of adequate care specified in Section 11452, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, averaged for the prospective quarter pursuant to Sections 11265.2 and 11265.3, and then calculated pursuant to Section 11451.5, shall be deducted from the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2). In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as

adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2), plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1	$ 326
2	535
3	663
4	788
5	899
6	1,010
7	1,109
8	1,209
9	1,306
10 or more	1,403

If, when, and during those times that the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to that increase or decrease by the United States government, provided that no increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(2) The sums specified in paragraph (1) shall not be adjusted for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, nor shall that amount be included in the base for calculating any cost-of-living increases for any fiscal year thereafter. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother for the month in which the birth is anticipated and for the three-month period immediately prior to the month in which the birth is anticipated in the amount that would otherwise be paid to one person, as specified in subdivision (a), if the mother, and child, if born, would have qualified for aid under this chapter. Verification of pregnancy shall be required as a condition of eligibility for aid under this subdivision. Aid shall also be paid to a pregnant woman with no other children in the amount which

would otherwise be paid to one person under subdivision (a) at any time after verification of pregnancy if the pregnant woman is also eligible for the Cal-Learn Program described in Article 3.5 (commencing with Section 11331) and if the mother, and child, if born, would have qualified for aid under this chapter.

(c) The amount of forty-seven dollars ($47) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If that payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child, if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which, when added to the child's income, is equal to the rate specified in Section 11460, 11461, 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(f) After a family has used all available liquid resources, both exempt and nonexempt, in excess of one hundred dollars ($100), the family shall also be entitled to receive an allowance for nonrecurring special needs.

(1) An allowance for nonrecurring special needs shall be granted for replacement of clothing and household equipment and for emergency housing needs other than those needs addressed by paragraph (2). These needs shall be caused by sudden and unusual circumstances beyond the control of the needy family. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all

nonrecurring special needs provided by this subdivision shall not exceed six hundred dollars ($600) per event.

(2) Homeless assistance is available to a homeless family seeking shelter when the family is eligible for aid under this chapter. Homeless assistance for temporary shelter is also available to homeless families which are apparently eligible for aid under this chapter. Apparent eligibility exists when evidence presented by the applicant or which is otherwise available to the county welfare department and the information provided on the application documents indicate that there would be eligibility for aid under this chapter if the evidence and information were verified. However, an alien applicant who does not provide verification of his or her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy, is not apparently eligible for purposes of this section.

A family is considered homeless, for the purpose of this section, when the family lacks a fixed and regular nighttime residence; or the family has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or the family is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. A family is also considered homeless for the purpose of this section if the family has received a notice to pay rent or quit. The family shall demonstrate that the eviction is the result of a verified financial hardship as a result of extraordinary circumstances beyond their control, and not other lease or rental violations, and that the family is experiencing a financial crisis that could result in homelessness if preventative assistance is not provided.

(A) (i) A nonrecurring special need of sixty-five dollars ($65) a day shall be available to families of up to four members for the costs of temporary shelter, subject to the requirements of this paragraph. The fifth and additional members of the family shall each receive fifteen dollars ($15) per day, up to a daily maximum of one hundred twenty-five dollars ($125). County welfare departments may increase the daily amount available for temporary shelter as necessary to secure the additional bedspace needed by the family.

(ii) This special need shall be granted or denied immediately upon the family's application for homeless assistance, and benefits shall be available for up to three working days. The county welfare department shall verify the family's homelessness within the first three working days and if the family meets the criteria of questionable homelessness established by the department, the county welfare department shall refer the family to its early fraud prevention and detection unit, if the county

has such a unit, for assistance in the verification of homelessness within this period.

(iii) After homelessness has been verified, the three-day limit shall be extended for a period of time which, when added to the initial benefits provided, does not exceed a total of 16 calendar days. This extension of benefits shall be done in increments of one week and shall be based upon searching for permanent housing which shall be documented on a housing search form; good cause; or other circumstances defined by the department. Documentation of housing search shall be required for the initial extension of benefits beyond the three-day limit and on a weekly basis thereafter as long as the family is receiving temporary shelter benefits. Good cause shall include, but is not limited to, situations in which the county welfare department has determined that the family, to the extent it is capable, has made a good faith but unsuccessful effort to secure permanent housing while receiving temporary shelter benefits.

(B) A nonrecurring special need for permanent housing assistance is available to pay for last month's rent and security deposits when these payments are reasonable conditions of securing a residence, or to pay for up to two months of rent arrearages, when these payments are a reasonable condition of preventing eviction.

The last month's rent or monthly arrearage portion of the payment (1) shall not exceed 80 percent of the family's total monthly household income without the value of food stamps or special needs for a family of that size and (2) shall only be made to families that have found permanent housing costing no more than 80 percent of the family's total monthly household income without the value of food stamps or special needs for a family of that size.

However, if the county welfare department determines that a family intends to reside with individuals who will be sharing housing costs, the county welfare department shall, in appropriate circumstances, set aside the condition specified in clause (2) of the preceding paragraph.

(C) The nonrecurring special need for permanent housing assistance is also available to cover the standard costs of deposits for utilities which are necessary for the health and safety of the family.

(D) A payment for or denial of permanent housing assistance shall be issued no later than one working day from the time that a family presents evidence of the availability of permanent housing. If an applicant family provides evidence of the availability of permanent housing before the county welfare department has established eligibility for aid under this chapter, the county welfare department shall complete the eligibility determination so that the denial of or payment for permanent housing assistance is issued within one working day from the submission of evidence of the availability of permanent housing, unless the family has

failed to provide all of the verification necessary to establish eligibility for aid under this chapter.

(E) (i) Except as provided in clauses (ii) and (iii), eligibility for the temporary shelter assistance and the permanent housing assistance pursuant to this paragraph shall be limited to one period of up to 16 consecutive calendar days of temporary assistance and one payment of permanent assistance. Any family that includes a parent or nonparent caretaker relative living in the home who has previously received temporary or permanent homeless assistance at any time on behalf of an eligible child shall not be eligible for further homeless assistance. Any person who applies for homeless assistance benefits shall be informed that the temporary shelter benefit of up to 16 consecutive days is available only once in a lifetime, with certain exceptions, and that a break in the consecutive use of the benefit constitutes permanent exhaustion of the temporary benefit.

(ii) A family that becomes homeless as a direct and primary result of a state or federally declared natural disaster shall be eligible for temporary and permanent homeless assistance.

(iii) A family shall be eligible for temporary and permanent homeless assistance when homelessness is a direct result of domestic violence by a spouse, partner, or roommate; physical or mental illness that is medically verified that shall not include a diagnosis of alcoholism, drug addiction, or psychological stress; or, the uninhabitability of the former residence caused by sudden and unusual circumstances beyond the control of the family including natural catastrophe, fire, or condemnation. These circumstances shall be verified by a third-party governmental or private health and human services agency and homeless assistance payments based on these specific circumstances may not be received more often than once in any 12-month period. A county may require that a recipient of homeless assistance benefits who qualifies under this paragraph for a second time in a 24-month period participate in a homelessness avoidance case plan as a condition of eligibility for homeless assistance benefits.

(iv) The county welfare department shall report to the department through a statewide homeless assistance payment indicator system, necessary data, as requested by the department, regarding all recipients of aid under this paragraph.

(F) The county welfare departments, and all other entities participating in the costs of the AFDC program, have the right in their share to any refunds resulting from payment of the permanent housing. However, if an emergency requires the family to move within the 12-month period specified in subparagraph (E), the family shall be allowed to use any

refunds received from its deposits to meet the costs of moving to another residence.

(G) Payments to providers for temporary shelter and permanent housing and utilities shall be made on behalf of families requesting these payments.

(H) The daily amount for the temporary shelter special need for homeless assistance may be increased if authorized by the current year's Budget Act by specifying a different daily allowance and appropriating the funds therefor.

(I) No payment shall be made pursuant to this paragraph unless the provider of housing is a commercial establishment, shelter, or person in the business of renting properties who has a history of renting properties.

(g) The department shall establish rules and regulations assuring the uniform application statewide of this subdivision.

(h) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(i) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a).

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

(j) For children receiving Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) of Chapter 2, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month, which, when added to the child's income, is equal to the rate specified in Section 11364.

SEC. 32. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(3) (A) The department shall determine, consistent with the requirements of this chapter and other relevant requirements under law, the rate classification level (RCL) for each group home program on a biennial basis. Submission of the biennial rate application shall be made according to a schedule determined by the department.

(B) The department shall adopt regulations to implement this paragraph. The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each RCL has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, and the single rate established for each RCL.

(e) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) (A) For new and existing providers requesting the establishment of an RCL, and for existing group home programs requesting an RCL increase, the department shall determine the RCL no later than 13 months after the effective date of the provisional rate. The determination of the RCL shall be based on a program audit of documentation and other information that verifies the level of care and supervision provided by the group home program during a period of the two full calendar months

or 60 consecutive days, whichever is longer, preceding the date of the program audit, unless the group home program requests a lower RCL. The program audit shall not cover the first six months of operation under the provisional rate. Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

(B) A group home program may apply for an increase in its RCL no earlier than two years from the date the department has determined the group home program's rate, unless the host county, the primary placing county, or a regional consortium of counties submits to the department in writing that the program is needed in that county, that the provider is capable of effectively and efficiently operating the proposed program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(C) To ensure efficient administration of the department's audit responsibilities, and to avoid the fraudulent creation of records, group home programs shall make records that are relevant to the RCL determination available to the department in a timely manner. Except as provided in this section, the department may refuse to consider, for purposes of determining the rate, any documents that are relevant to the determination of the RCL that are not made available by the group home provider by the date the group home provider requests a hearing on the department's RCL determination. The department may refuse to consider, for purposes of determining the rate, the following records, unless the group home provider makes the records available to the department during the fieldwork portion of the department's program audit:

(i) Records of each employee's full name, home address, occupation, and social security number.

(ii) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals, and total daily hours worked.

(iii) Total wages paid each payroll period.

(iv) Records required to be maintained by licensed group home providers under Title 22 of the California Code of Regulations that are relevant to the RCL determination.

(D) To minimize financial abuse in the startup of group home programs, when the department's RCL determination is more than three levels lower than the RCL level proposed by the group home provider,

and the group home provider does not appeal the department's RCL determination, the department shall terminate the rate of a group home program 45 days after issuance of its program audit report. When the group home provider requests a hearing on the department's RCL determination, and the RCL determined by the director under subparagraph (E) is more than three levels lower than the RCL level proposed by the group home provider, the department shall terminate the rate of a group home program within 30 days of issuance of the director's decision. Notwithstanding the reapplication provisions in subparagraph (B), the department shall deny any request for a new or increased RCL from a group home provider whose RCL is terminated pursuant to this subparagraph, for a period of no greater than two years from the effective date of the RCL termination.

(E) A group home provider may request a hearing of the department's RCL determination under subparagraph (A) no later than 30 days after the date the department issues its RCL determination. The department's RCL determination shall be final if the group home provider does not request a hearing within the prescribed time. Within 60 days of receipt of the request for hearing, the department shall conduct a hearing on the RCL determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall

provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) (1) The standardized schedule of rates for the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years is:

Rate Classification Level	Point Ranges	FY 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07 Standard Rate
1	Under 60	$1,454
2	60- 89	1,835
3	90-119	2,210
4	120-149	2,589
5	150-179	2,966
6	180-209	3,344
7	210-239	3,723
8	240-269	4,102
9	270-299	4,479
10	300-329	4,858
11	330-359	5,234
12	360-389	5,613
13	390-419	5,994
14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate Classification Level	Adjusted Point Ranges for the 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07 Fiscal Years
1	Under 54
2	54- 81
3	82-110
4	111-138
5	139-167

6	168-195
7	196-224
8	225-253
9	254-281
10	282-310
11	311-338
12	339-367
13	368-395
14	396 & Up

(B) Notwithstanding subparagraph (A), foster care providers operating group homes during the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years shall remain responsible for ensuring the health and safety of the children placed in their programs in accordance with existing applicable provisions of the Health and Safety Code and community care licensing regulations, as contained in Title 22 of the Code of California Regulations.

(C) Subparagraph (A) shall not apply to program audits of group home programs with provisional rates established pursuant to paragraph (1) of subdivision (e). For those program audits, the RCL point ranges in paragraph (1) shall be used.

(g) (1) (A) For the 1999–2000 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453. The resultant amounts shall constitute the new standardized schedule of rates, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment in subparagraph (A), commencing January 1, 2000, the standardized rate for each RCL shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized schedule of rates.

(2) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts shall constitute the new standardized schedule of rates.

(3) Effective January 1, 2001, the amount included in the standard rate for each Rate Classification Level (RCL) for the salaries, wages, and benefits for staff providing child care and supervision or performing social work activities, or both, shall be increased by 10 percent. This additional funding shall be used by group home programs solely to supplement staffing, salaries, wages, and benefit levels of staff specified in this paragraph. The standard rate for each RCL shall be recomputed

using this adjusted amount and the resultant rates shall constitute the new standardized schedule of rates. The department may require a group home receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

(h) The standardized schedule of rates pursuant to subdivisions (f) and (g) shall be implemented as follows:

(1) Any group home program that received an AFDC-FC rate in the prior fiscal year at or above the standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(2) Any group home program that received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive the RCL rate for the current year.

(i) (1) The department shall not establish a rate for a new program of a new or existing provider, or for an existing program at a new location of an existing provider, unless the provider submits a letter of recommendation from the host county, the primary placing county, or a regional consortium of counties that includes all of the following:

(A) That the program is needed by that county.

(B) That the provider is capable of effectively and efficiently operating the program.

(C) That the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(D) That, if the letter of recommendation is not being issued by the host county, the primary placing county has notified the host county of its intention to issue the letter and the host county was given the opportunity 30 days to respond to this notification and to discuss options with the primary placing county.

(2) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(3) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, "program change" means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed

capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 2000, and as adjusted pursuant to subparagraph (B) of paragraph (1) of subdivision (g), except as provided in paragraph (3).

(3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the department shall not establish a rate for a new program of a new or existing provider or approve a program change for an existing provider that either increases the program's RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another program with a lower RCL or lower AFDC-FC rate that is operated by that provider, unless both of the following conditions are met:

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if both of the following conditions are met:

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The department determines that the new program or program change will result in a reduction of referrals to state hospitals during the 1998–99 fiscal year.

(*l*) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(m) The department shall, by October 1 of each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

SEC. 32.1. Section 11466.21 of the Welfare and Institutions Code is amended to read:

11466.21. (a) In accordance with subdivision (b), as a condition to receive an AFDC-FC rate for a group home program or a foster family agency program that provides treatment services, the following shall apply:

(1) Any provider who receives in combined federal funds an amount at or above the federal funding threshold in accordance with the federal Single Audit Act, as amended, and Office of Management and Budget (OMB) Circular A-133, shall arrange to have a financial audit conducted on an annual basis, and shall submit the annual financial audit to the department in accordance with regulations adopted by the department.

(2) Any provider who receives in combined federal funds an amount below the federal funding threshold in accordance with the federal Single Audit Act, as amended, and Office of Management and Budget (OMB) Circular A-133, shall submit to the department a financial audit on its most recent fiscal period at least once every three years. The department shall provide timely notice to the providers of the date that submission of the financial audit is required. That date of submission of the financial audit shall be established in accordance with regulations adopted by the department.

(3) The scope of the financial audit shall include all of the programs and activities operated by the provider and shall not be limited to those funded in whole or in part by the AFDC-FC program. The financial audits shall include, but not be limited to, an evaluation of the accounting and control systems of the provider.

(4) The provider shall have its financial audit conducted by certified public accountants or by state-licensed public accountants who have no direct or indirect relationship with the functions or activities being audited, or with the provider, its board of directors, officers, or staff.

(5) The provider shall have its financial audits conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States and in compliance with generally accepted accounting principles applicable to private entities organized and operated on a nonprofit basis.

(6) (A) Each provider shall have the flexibility to define the calendar months included in its fiscal year.

(B) A provider may change the definition of its fiscal year. However, the financial audit conducted following the change shall cover all of the months since the last audit, even though this may cover a period that exceeds 12 months.

(b) (1) In accordance with subdivision (a), as a condition to receive an AFDC-FC rate that becomes effective on or after July 1, 2000, a

provider shall submit a copy of its most recent financial audit report, except as provided in paragraph (3).

(2) The department shall terminate the rate of a provider who fails to submit a copy of its most recent financial audit pursuant to subdivision (a). A terminated rate shall only be reinstated upon the provider's submission of an acceptable financial audit.

(3) Effective July 1, 2000, a new provider that has been incorporated for fewer than 12 calendar months shall not be required to submit a copy of a financial audit to receive an AFDC-FC rate for a new program. The financial audit shall be conducted on the provider's next full fiscal year of operation. The provider shall submit the financial audit to the department in accordance with subdivision (a).

(c) The department shall implement this section through the adoption of emergency regulations.

SEC. 33. Section 12201.03 of the Welfare and Institutions Code is amended to read:

12201.03. (a) For the 1992, 1993, 1994, 1995, 1996, 1997, and 1998 calendar years, or for the period of January 1, 2003, to May 31, 2003, inclusive, if no cost-of-living adjustment is made pursuant to Section 12201, the payment schedules set forth in Sections 12200, 13920, and 13921, as adjusted pursuant to Section 12201, shall include the pass along of any cost-of-living increases in federal benefits under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code.

(b) Notwithstanding paragraph (2) of subdivision (d) of Section 12201, any adjustments made pursuant to this section to reflect the pass along of federal cost-of-living adjustments shall be included in the base amounts for purposes of determining cost-of-living adjustments made pursuant to Section 12201.

(c) Notwithstanding subdivision (a), no pass along of any cost-of-living increase in federal benefits under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code shall be made in 1994. This provision shall not apply to those persons receiving payments pursuant to subdivisions (e), (g), and (h) of Section 12200.

(d) Notwithstanding subdivision (a), in no event shall the payment schedules be reduced below the level required by the federal Social Security Act in order to maintain eligibility for federal funding under Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(e) Notwithstanding subdivisions (a) and (c), for the 2006 calendar year, the pass along of any cost-of-living increase in federal benefits

under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code shall not become effective until April 1, 2006. This subdivision shall not apply to those persons receiving payments pursuant to subdivisions (e), (g), and (h) of Section 12200.

SEC. 34. Section 12201.05 of the Welfare and Institutions Code is amended to read:

12201.05. (a) Commencing with the 2004 calendar year, and thereafter, in any calendar year in which no cost-of-living adjustment is made pursuant to Section 12201, the payment schedules set forth in Sections 12200, 13920, and 13921, as adjusted pursuant to Section 12201, shall include the pass along of any cost-of-living increases in federal benefits under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, except that for the 2006 calendar year, the federal pass along shall not become effective until April 1, 2006. This delay shall not apply to those persons receiving payments pursuant to subdivisions (e), (g), and (h) of Section 12200.

(b) Notwithstanding paragraph (2) of subdivision (d) of Section 12201, any adjustments made pursuant to this section to reflect the pass-along of federal cost-of-living adjustments shall be included in the base amounts for purposes of determining cost-of-living adjustments made pursuant to Section 12201.

SEC. 35. Section 12304.4 of the Welfare and Institutions Code is amended to read:

12304.4. (a) The department shall establish a program of direct deposit by electronic transfer for payments to in-home supportive services providers. A provider may choose to receive payments via direct deposit at his or her option. The State Department of Social Services, the Controller, and the California Health and Human Services Agency shall make all necessary automation changes to allow for payment by direct deposit.

(b) Notwithstanding any other provision of law, a person entitled to the receipt of direct payment as an individual provider pursuant to Section 12302.2 for providing in-home supportive services may authorize payment to be directly deposited by electronic fund transfer into the person's account at the financial institution of his or her choice under a program for direct deposit by electronic transfer established by the department.

SEC. 36. Section 14124.93 of the Welfare and Institutions Code is amended to read:

14124.93. (a) The Department of Child Support Services shall provide payments to the local child support agency of fifty dollars ($50) per case for obtaining third-party health coverage or insurance of

beneficiaries, to the extent that funds are appropriated in the annual Budget Act.

(b) A county shall be eligible for a payment if the county obtains third-party health coverage or insurance for applicants or recipients of Title IV-D services not previously covered, or for whom coverage has lapsed, and the county provides all required information on a form approved by both the Department of Child Support Services and the State Department of Health Services.

(c) Payments to the local child support agency under this section shall be suspended for the 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

SEC. 37. Section 15204.6 of the Welfare and Institutions Code is amended to read:

15204.6. (a) Contingent upon a Budget Act appropriation, a Pay for Performance Program shall provide additional funding for counties that meet the standards developed according to subdivision (c) in their welfare-to-work programs under Article 3.2 (commencing with Section 11320) of Chapter 2. The state shall have no obligation to pay incentives earned that exceed the funds appropriated for the year in which the incentives were earned.

(b) To the extent that funds are appropriated, the maximum total funds available to each county each year under the Pay for Performance Program shall be 5 percent of the funds the county receives that year, less the amount for child care, from the single allocation under Section 15204.2. If funds appropriated for this section are less than the incentives earned under this subdivision, each county's allocation under this section shall be prorated based on the amount of funds appropriated for that year.

(c) The funds available to each county under the Pay for Performance Program shall be divided each year into as many equal parts as there are measures established for the year under this subdivision. A county shall earn payment of one equal part for each improvement standard that it achieves for the year or by ranking in the top 20 percent of all counties in a measure identified in paragraphs (1), (2), (3), and (4). The department shall consult with the County Welfare Directors Association, legislative staff, and other stakeholders, when developing improvement standards and the methodology for earning and distributing incentives for each of the following measures:

(1) The employment rate of county CalWORKs cases.

(2) The federal participation rates of county CalWORKs cases, calculated in accordance with Section 607 of Title 42 of the United States Code, but excluding individuals who are exempt in accordance with Section 11320.3 and including sanctioned cases and cases participating

in activities described in subdivision (q) of Section 11322.6. If valid data does not exist to measure this outcome, the funds for this measure shall be made available for the Pay for Performance Program in the following fiscal year.

(3) The percentage of county CalWORKs cases that have earned income three months after ceasing to receive assistance under Section 11450.

(4) Any additional measures that the department may establish in consultation with the County Welfare Directors Association, legislative staff, and other stakeholders.

(d) Performance measures, standards, outcomes, and payments to counties under subdivisions (a), (b), and (c) shall be based on the following schedule:

(1) For the performance measure described in paragraph (2) of subdivision (c), payments in fiscal year 2007–08 shall be based on outcomes for the period of July 1, 2006, through December 31, 2006, compared to outcomes for the period of January 1, 2007, through June 30, 2007, and payments in each subsequent fiscal year shall be based on outcomes for the fiscal year prior to payment, compared to outcomes for the fiscal year two years prior to payment.

(2) For all other performance measures, payments shall be based on outcomes for the fiscal year prior to payment, compared to outcomes for the fiscal year two years prior to payment.

(e) The department may make further adjustments to any of the performance measures listed under subdivision (c), in consultation with the County Welfare Directors Association, legislative staff, and other stakeholders.

(f) The funds paid in accordance with this section may only be used in accordance with subdivisions (f) and (g) of Section 10544.1 and only for the purpose of enhancing family self-sufficiency. Funds earned by a county in accordance with this section shall be available for expenditure in the fiscal year that they are received and the following two fiscal years. Following the period of availability, and notwithstanding any provisions of subdivision (f) of Section 10544.1 to the contrary, any unspent balance shall revert to the Temporary Assistance for Needy Families (TANF) block grant.

(g) Any funds appropriated by the Legislature for the Pay for Performance Program, but not earned by a county, shall revert to the TANF block grant at the end of the fiscal year for which the funds were appropriated.

(h) The department shall periodically publish the outcomes measured by the Pay for Performance Program, identified by county.

(i) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section through all-county letters throughout the duration of the Pay for Performance Program.

SEC. 37.1. Section 16124 is added to the Welfare and Institutions Code, to read:

16124. (a) (1) Upon the appropriation of funds by the Legislature for the purposes set forth in this section, the State Department of Social Services shall establish a project in four counties and one state district office of the department to provide preadoption and postadoption services to ensure the successful adoption of children and youth who have been in foster care 18 months or more, are at least nine years of age, and are placed in an unrelated foster home or in a group home.

(2) The participating entities shall include the following:

(A) City and County of San Francisco.

(B) County of Los Angeles.

(C) Two additional counties and one state district office, based on criteria developed by the department in consultation with the County Welfare Directors Association, which shall demonstrate geographic diversity.

(3) A county that elects to apply for funding pursuant to this section shall submit an application to the department no later than a date determined by the department to ensure timely allocation of funds. The department shall review the applications received, and select the eligible counties in accordance with this section.

(b) Each entity identified pursuant to paragraph (2) of subdivision (a) shall receive funding to provide preadoption and postadoption services to the adoptive parents and the targeted population identified in paragraph (1) of subdivision (a).

(1) Preadoption and postadoption services for the child and each family may include, but shall not be limited to, all of the following:

(A) Individualized or other recruitment efforts.

(B) Postadoption services, including respite care.

(C) Behavioral health services.

(D) Peer support groups.

(E) Information and referral services.

(F) Other locally designed services, as appropriate.

(G) Relative search efforts.

(H) Training of adoptive parents, foster youth, or mentoring families.

(I) Mediation services.

(J) Facilitation of siblings in the same placement.

(K) Facilitation of postadoption contact.

(L) Engaging youth in permanency decisionmaking.

(M) Any service or support necessary to resolve any identified barrier to adoption.

(2) The services specified in paragraph (1) may be provided directly by the county, contracted for by the county, or provided through reimbursement to the family, as approved by the county.

(c) The amount of funding provided in the appropriation of funds provided by the annual Budget Act to each county participating in the project shall be allocated as follows:

(1) Seven hundred fifty thousand dollars ($750,000) to the City and County of San Francisco.

(2) One million two hundred fifty thousand dollars ($1,250,000) to the County of Los Angeles.

(3) A total of two million dollars ($2,000,000), to be awarded to the two additional counties and the district office selected pursuant to subparagraph (C) of paragraph (3) of subdivision (a), minus any funds subtracted by the department for the purpose of administering the project. The amount of funds provided to the department for administration of the project, including the costs of collecting and analyzing data pursuant to subdivision (h) and developing the information pursuant to subdivision (i), shall not exceed three hundred thousand dollars ($300,000).

(4) If the appropriated amount in the annual Budget Act differs from the total amount specified above, then the funds shall be distributed in the same proportion as the amounts listed in paragraphs (1) to (3), inclusive.

(d) Funds shall be allocated to the counties pursuant to subdivision (c) no later than January 1 of each year, and shall remain available for expenditure for three years.

(e) (1) The department shall seek approval for any federal matching funds that may be available to supplement the project.

(2) The implementation of the project shall not be dependent upon the receipt of federal funding.

(3) Project funds shall supplement, and not supplant, existing federal, state, and local funds, and shall be used only in accordance with the terms and conditions of the project.

(4) No expenditure made for services specified in subdivision (b) may be made to the extent that it renders the family ineligible for federal adoption assistance.

(f) The project shall be implemented only upon the adoption of a resolution adopted by each county board of supervisors.

(g) The department shall work with the counties to develop the requirements for the project, including the number of families that may

participate in the project, given the available resources, and guidelines for data collection, as required by subdivision (h).

(h) (1) The department shall work with the participating county and the state district office to analyze the effects of the project.

(2) Measures assessed by the state and counties shall include, but shall not be limited to, the following:

(A) The extent to which the adoptions of the targeted population identified in paragraph (1) of subdivision (a) increased as a result of the project.

(B) The number of families and children served by the project.

(C) The type and amount of preadoption and postadoption services that were provided to children and families under the project.

(i) The department shall provide information to the Legislature on the results of the project by November 30, 2010.

(j) Adoption programs in the project counties shall be encouraged to create public-private partnerships with private adoption agencies to maximize their success in improving permanent outcomes for older foster youth.

SEC. 38. Section 16605 of the Welfare and Institutions Code is amended to read:

16605. (a) The department shall, subject to the availability of funds appropriated therefor, conduct a Kinship Support Services Program that is a grants-in-aid program providing startup and expansion funds for local kinship support services programs that provide community-based family support services to relative caregivers and the children placed in their homes by the juvenile court or who are at risk of dependency or delinquency. Relatives with children in voluntary placements may access services, at the discretion of the county.

(b) The Kinship Support Services Program shall create a public-private partnership. A combination of federal, state, county, and private sector resources shall finance the establishment and ongoing operation of the program.

(c) The counties that elect to participate in the program shall meet the following conditions and requirements:

(1) Have a demonstrated capacity for collaboration and interagency coordination.

(2) Have a viable plan for ongoing financial support of the local kinship support services program.

(3) Utilize relative caregivers as employees of the program.

(4) Have strong and viable public or private agencies to operate the program.

(5) Provide to the department the number of relative caretakers residing in the county, and the projected number of relative caretakers to be served.

(6) Describe how the county will develop and maintain the necessary community supports.

(7) Outline the county's outcome improvement goals for the program. These goals shall include, but shall not be limited to, moving children out of foster care and into the Kinship Guardian Assistance Payment Program (Kin-GAP), Kin-GAP Plus or adoption, placement stability, and preventing children from entering foster care. The county shall also agree to measure and report data regarding the Kinship Support Services Program, as required by the department.

(d) The Kinship Support Services Program shall demonstrate the use of supportive services provided to relative caregivers and children placed in their homes using a community-based kinship support services model. This model shall provide services to relative caregivers that are aimed at helping to ensure permanent family kinship placements for children who have been placed with them by the juvenile court, and to provide family support services that will eliminate the need for juvenile court jurisdiction and the provision of services by the county welfare department.

(e) The program shall provide family support services appropriate for the target populations. These services may include, but are not limited to, the following:

(1) Assessment and case management.

(2) Social services referral and intervention aimed at maintaining the kinship family unit, for example, housing, homemaker services, respite care, legal services, and day care.

(3) Transportation for medical care and educational and recreational activities.

(4) Information and referral services.

(5) Individual and group counseling in the area of parent-child relationships and group conflict.

(6) Counseling and referral services aimed at promoting permanency, including kinship adoption and guardianship.

(7) Tutoring and mentoring.

(f) The Edgewood Center for Children and Families in San Francisco or any other appropriate agency or individual approved by the department in consultation with the Statewide Kinship Advisory Committee shall provide technical assistance to the Kinship Support Services Program and shall facilitate the sharing of information and resources among the local programs.

SEC. 38.1. Chapter 4.5 (commencing with Section 18260) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 4.5. CHILD WELFARE WAIVER DEMONSTRATION PROJECT

18260. (a) The department may conduct a demonstration project in up to 20 counties, to allow flexible use of federal and state foster care funds by utilizing a federal capped allocation model over a five-year period, based on the terms and conditions of the federal Title IV-E waiver. Participation shall be at the option of each county, subject to state approval, provided that each county has entered into a memorandum of understanding (MOU) with the department, as described in subdivision (c). The department shall not be required to conduct any demonstration projects under this section if no county elects to participate. It is the intent of the Legislature that this project will improve outcomes or safety for children, and that the state shall provide immediate assistance, as needed, if the department finds that children's health, safety, or well-being has declined, or is at risk of declining, as a result of a county's participation in the project.

(b) The department is authorized to conduct the demonstration project in order to provide participating counties with flexibility in their use of state and federal foster care maintenance and administrative funds that were previously restricted to payment for the care and supervision of children in out-of-home placements and administrative expenditures. Any county, state, or federal savings in the foster care program that occur as a result of the demonstration project will be reinvested by the counties in child welfare services program improvements. These foster care savings will support the counties in developing a broader and more responsive array of services that will contribute to improved outcomes for children and families.

(c) The department shall work with county welfare directors and other stakeholders to develop the terms and conditions of the MOU. The MOU shall incorporate the terms and conditions of the federal approval of the use of federal funds for the demonstration project, additional conditions as described in this section, and provisions deemed by the department and counties as reasonably necessary to fulfill the purpose of the demonstration project and to ensure compliance with its conditions and with this section. Provisions of the MOU shall include, but shall not be limited to, all of the following:

(1) The MOU shall specify the time periods for the county's participation in the demonstration project, and shall set forth procedures for the county to opt out of participation in the demonstration project. A county electing to opt out of the demonstration project shall provide

written notice to the department of its intent to do so in accordance with the MOU.

(2) The county is responsible for ensuring that adequate funds are available to protect children at risk of abuse and neglect, by out-of-home placement or otherwise, until funds are appropriated to the county through the Budget Act, including provisional language in the Budget Act that authorizes midyear funding adjustments, for this purpose.

(3) The MOU shall specify the allocation methodology for the capped amount of federal funds that will be allocated to the county for the demonstration project, as well as the county's share of cost.

(4) The MOU shall specify the methodology for the provision of state General Fund resources that a county shall receive under the waiver and the liability for the county and the state for costs in excess of the capped federal amount.

(d) The county and state share-of-costs for the demonstration project shall be determined notwithstanding Sections 15200 and 10100.

SEC. 39. Division 26 (commencing with Section 25200) is added to the Welfare and Institutions Code, to read:

DIVISION 26. NATURALIZATION SERVICES PROGRAM

25200. (a) The Naturalization Services Program is hereby established in, and shall be administered by, the Department of Community Services and Development in the California Health and Human Services Agency.

(b) The department shall administer the program to provide funding to community-based organizations to assist legal permanent residents in obtaining citizenship.

(c) This division shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or another statute.

SEC. 40. (a) It is the intent of the Legislature that the State Department of Social Services prepare and submit to the Legislature a Master Plan for CalWORKs data by April 1, 2007, which shall be developed by the department in consultation with Legislative staff, the County Welfare Directors Association, and other state departments and stakeholders.

(b) The master plan shall include, but not be limited to, the following four elements:

(1) An assessment of the state's data needs in light of the CalWORKs program goals. Program goals include outcomes related to work participation, poverty status, and child well-being.

(2) An outline for a new participation report that includes, but would not be limited to, the number of hours of participation, how many

recipients are meeting the state CalWORKs and federal participation requirements, the types of activities in which recipients participate, and how many recipients use different support services.

(3) Guidelines, requirements, timeframes, and cost estimates for county automation improvements to collect participation data that is consistent with the master plan.

(4) A plan for longitudinal data reports, which identifies how the participation of cohorts of recipients changes over specified time periods, consistent with the requirements of paragraph (1) of subdivision (b) of Section 11525 of the Welfare and Institutions Code.

SEC. 41. The State Department of Alcohol and Drug Programs shall submit a methamphetamine prevention plan to the Legislature by April 1, 2007. The plan shall evaluate whether existing state or federal resources for substance abuse prevention activities can be redirected to methamphetamine prevention. The plan shall identify potential targeted audiences for prevention, suggest messages for prevention, and consider strategies for using media, community involvement, and public relations to reach the targeted audience. The department shall also report on recent trends in methamphetamine use and how the prevention strategy will help reduce the use of methamphetamine statewide. The department shall report on its efforts at budget hearings in 2007 and 2008.

SEC. 42. The Legislature finds and declares that Section 11999.6.1 of the Health and Safety Code, as added by Section 23.1 of this act, furthers, and is consistent with the purposes of, the Substance Abuse and Crime Prevention Act of 2000.

SEC. 43. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to the Welfare and Institutions Code by Sections 27.2, 27.3, 27.6, 27.7, 28, 29.01, 29.2, 29.3, 29.32, 29.5, 31.1, 31.2, 35, 37.1, 38, and 38.1 of this act through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those amendments no later than July 1, 2008.

(b) The adoptions of regulations pursuant to subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by 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 shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

SEC. 44. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 45. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 46. 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 necessary statutory changes to implement the Budget Act of 2006 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 76

An act to amend Section 14166.21 of, and to add and repeal Part 3.5 (commencing with Section 15900) of Division 9 of, the Welfare and Institutions Code, relating to health care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 2006. Filed with Secretary of State July 18, 2006.]

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

SECTION 1. Section 14166.21 of the Welfare and Institutions Code is amended to read:

14166.21. (a) The Health Care Support Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this article.

(b) Amounts in the Health Care Support Fund shall be paid in the following order of priority:

(1) To hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet the aggregate baseline funding amount, or the adjusted aggregate baseline funding amount for project years after the 2005-06 project year, as specified in subdivision (d) of Section 14166.5, subdivision (b) of Section 14166.13, and Section

14166.18, taking into account all other payments to each hospital under this article. If the amount in the Health Care Support Fund is inadequate to provide full aggregate baseline funding, or adjusted aggregate baseline funding, to all designated public hospitals, project year private DSH hospitals, and nondesignated public hospitals, each group's payments shall be reduced pro rata.

(2) To the extent necessary to maximize federal funding under the demonstration project and consistent with Section 14166.22, the department may obtain safety net care pool funds based on health care expenditures incurred by the department for uncompensated medical care costs of medical services provided to uninsured individuals, as approved by the federal Centers for Medicare and Medicaid Services.

(3) Stabilization funding, allocated and paid in accordance with Sections 14166.75, 14166.14, and 14166.19.

(c) Any amounts remaining after final reconciliation of all amounts due at the end of a project year shall remain available for payments in accordance with this section in the next project year.

(d) The fund shall include any interest that accrues on amounts in the fund.

SEC. 2. Part 3.5 (commencing with Section 15900) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 3.5. HEALTH CARE COVERAGE INITIATIVE

15900. The Legislature finds and declares the following:

(a) Approximately 21 percent of nonelderly Californians lack health insurance coverage. Many are low-income individuals who are not eligible for existing public health coverage programs.

(b) One hundred eighty million dollars ($180,000,000) in federal funds will be available for three years to reimburse for public expenditures made under a Health Care Coverage Initiative for uninsured individuals. These funds are to be provided pursuant to the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion.

(c) California's health care safety net system plays an essential role in delivering critical health services to low-income individuals.

(d) Local governments have the unique ability to design health service delivery models that meet the needs of their diverse populations and build on local infrastructures.

15901. (a) There is hereby established the Health Care Coverage Initiative to expand health care coverage to low-income uninsured individuals in California.

(b) The Health Care Coverage Initiative shall operate pursuant to the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion that became effective September 1, 2005. The initiative shall be implemented only to the extent that federal financial participation is available.

15902. (a) Persons eligible to be served by the Health Care Coverage Initiative are low-income uninsured individuals who are not currently eligible for the Medi-Cal program, Healthy Families Program, or Access for Infants and Mothers program.

(b) Funding for the Health Care Coverage Initiative shall be used to expand health care coverage for eligible uninsured individuals.

(c) Any expansion of health care coverage for uninsured individuals shall not diminish access to health care available for other uninsured individuals, including access through disproportionate share hospitals, county clinics, or community clinics.

(d) Services provided under the Health Care Coverage Initiative shall be available to those eligible uninsured individuals enrolled in a Health Care Coverage program, and nothing in this part shall be construed to create an entitlement program of any kind.

(e) No state General Fund moneys shall be used to fund the Health Care Coverage Initiative, nor to fund any related administrative costs provided to counties.

15903. The Health Care Coverage Initiative shall be designed and implemented to achieve all of the following outcomes:

(a) Expand the number of Californians who have health care coverage.

(b) Strengthen and build upon the local health care safety net system, including disproportionate share hospitals, county clinics, and community clinics.

(c) Improve access to high quality health care and health outcomes for individuals.

(d) Create efficiencies in the delivery of health services that could lead to savings in health care costs.

(e) Provide grounds for long-term sustainability of the programs funded under the initiative.

(f) Implement programs in an expeditious manner in order to meet federal requirements regarding the timing of expenditures.

15904. (a) The State Department of Health Services shall issue a request for applications for funding the Health Care Coverage Initiative.

(b) The department shall allocate federal funds available to be claimed under the Health Care Coverage programs.

(c) The department shall select the Health Care Coverage programs that best meet the requirements and desired outcomes set forth in this part.

(d) The following elements shall be used in evaluating the proposals to make selections and to determine the allocation of the available funds:

(1) Enrollment processes, with an identification system to demonstrate enrollment of the uninsured into the program.

(2) Use of a medical record system, which may include electronic medical records.

(3) Designation of a medical home and assignment of eligible individuals to a primary care provider. For purposes of this paragraph, "medical home" means a single provider or facility that maintains all of an individual's medical information. The primary care provider shall be a provider from which the enrollee can access primary and preventive care.

(4) Provision of a benefit package of services, including preventive and primary care services, and care management services designed to treat individuals with chronic health care conditions, mental illness, or who have high costs associated with their medical conditions, to improve their health and decrease future costs. Benefits may include case management services.

(5) Quality monitoring processes to assess the health care outcomes of individuals enrolled in the Health Care Coverage program.

(6) Promotion of the use of preventive services and early intervention.

(7) The provision of care to Medi-Cal beneficiaries by the applicant and the degree to which the applicant coordinates its care with services provided to Medi-Cal beneficiaries.

(8) Screening and enrollment processes for individuals who may qualify for enrollment into Medi-Cal, the Healthy Families Program, and the Access for Infants and Mothers Program prior to enrollment into the Health Care Coverage program.

(9) The ability to demonstrate how the Health Care Coverage program will promote the viability of the existing safety net health care system.

(10) Documentation to support the applicant's ability to implement the Health Care Coverage program by September 1, 2007, and to use its allocation for each project year.

(11) Demonstration of how the program will provide consumer assistance to individuals applying to, participating in, or accessing services in the program.

(e) Entities eligible to apply for the initiative funds are a county, city and county, consortium of counties serving a region consisting of more than one county, or health authority. No entity shall submit more than one proposal.

(f) The department shall rank the program applications based on the criteria in this section. The amount of federal funding available to be claimed shall be allocated based upon the ranking of the applications. The department shall allocate the available federal funding to the highest ranking applications until all of the funding is allocated. The department shall select at least five programs, and no single program shall receive an allocation greater than 30 percent of the total federal allotment. The department is not required to fund the entire amount requested in a program application.

(g) The department shall seek to balance the allocations throughout geographic areas of the state.

(h) Each county, city and county, consortium of counties, or health authority that is selected to receive funding shall provide the necessary local funds for the nonfederal share of the certified public expenditures, or intergovernnmental transfers to the extent allowable under the demonstration project, required to claim the federal funds made available from the federal allotment. The certified public expenditures, or intergovernmental transfers to the extent allowable under the demonstration project, shall meet the requirements of the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion that became effective September 1, 2005.

(i) The federal allocation shall be available to the selected programs for the three-year period covering the Health Care Coverage program pursuant to the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion, unless the selected programs do not incur expenditures sufficient to claim the allocation of federal funds in the particular program year. Selected programs shall expend the funds according to an expenditure schedule determined by the department.

(j) The department may reallocate the available federal funds among selected programs or other program applicants that were previously not selected for funding, if necessary to meet federal requirements regarding the timing of expenditures, notwithstanding subdivision (f). If a selected program fails to substantially comply with the requirements of this article, the department may reallocate the available federal funds from that selected program to other selected programs or other program applications that previously were not selected for funding. If a selected program is unable to meet its spending targets, determined at the end of the second quarter of each program year, the department may reallocate funds to other selected programs or other program applications that previously were not selected for funding, to ensure that all available

federal funds are claimed. Selected programs receiving reallocated funds must have the ability to make the certified public expenditures necessary to claim the reallocated federal funds.

(k) Federal funds provided for the initiative shall supplement, and not supplant, any county, city and county, health authority, state, or federal funds that would otherwise be spent on health care services in the county, city and county, consortium of counties, or a health authority region. Federal funds allocated under the initiative shall reimburse the selected county, city and county, consortium of counties, or health authority for the benefits and services provided under subdivision (d) of Section 15904. Administrative costs associated with the development and management of the initiative shall not be paid from the Health Care Coverage program allocation, and any allocations for administrative funds shall be in addition to the allocations made for the initiative.

15905. Applications submitted to the department shall include, but not be limited to, each of the following:

(a) A description of the proposed Health Care Coverage program, including, but not limited to, all of the following:

(1) Eligibility criteria.

(2) Screening and enrollment processes that include an identification system to demonstrate enrollment into the Health Care Coverage program.

(3) Screening processes to identify individuals who may qualify for enrollment into Medi-Cal, the Healthy Families Program, or the Access for Infants and Mothers Program.

(b) A description of the quality monitoring system to be implemented with the Health Care Coverage program.

(c) A description of the population to be served.

(d) A list of health care providers who have agreed to participate in the Health Care Coverage program.

(e) A description of the organized health care delivery systems to be used for the Health Care Coverage program, including, but not limited to, designation of a medical home and processes used to assign eligible individuals to a primary care provider.

(f) A list of the health benefits to be provided, including the preventive and primary care services and how they will be promoted.

(g) A description of the care management services to be provided, and the providers of those services.

(h) A calculation of the average cost per individual served.

(i) The number of individuals to be served.

(j) The mechanism under which the proposed Health Care Coverage Initiative will make expenditures to, or on behalf of, providers and other entities, including, but not limited to, documentation to support the ability

to implement the Health Care Coverage program by September 1, 2007, and to claim the full amount of the allocation for each program year.

(k) A description of the source of the local nonfederal share of funds.

(*l*) A description of how the proposed Health Care Coverage program will strengthen the local health care safety net system.

(m) A consent form signed by the applicant to provide requested data elements as required per the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion.

(n) Use of a reliable medical record system, that may include, but need not be limited to, existing electronic medical records.

(o) A complete description of health care services currently provided to Medi-Cal beneficiaries and a description as to how the proposed Health Care Coverage program will coordinate its Health Care Coverage program with services provided to Medi-Cal beneficiaries.

15906. (a) The department shall seek partnership with an independent, nonprofit group or foundation, an academic institution, or a governmental entity providing grants for health-related activities, to evaluate the programs funded under the initiative.

(b) The evaluation shall, at a minimum, include an assessment of the extent to which the programs have met the outcomes listed in Section 15903.

(c) The department and the selected programs shall provide the data for the evaluation.

(d) The evaluation shall be submitted concurrently to the appropriate policy and fiscal committees of the Legislature and to the Secretary of Health and Human Services.

15907. (a) The department shall monitor the programs funded under the initiative for compliance with applicable federal requirements and the requirements under this part, and pursuant to the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion.

(b) To the extent necessary to implement this part, the department shall submit, by September 1, 2006, to the federal Centers for Medicare and Medicaid Services, proposed waiver amendments on the structure of, and eligibility and benefits under, the Health Care Coverage Initiative.

(c) The department shall monitor the allocations to selected programs at least quarterly for spending levels.

(d) No funds made available from the Health Care Support Fund for the Health Care Coverage Initiative shall be used by the department for administration.

(e) The request for applications, including any part of the process described herein for selecting entities to operate the Health Care Coverage programs, and any agreements entered into with a county, city and county, consortium of counties, or health authority pursuant to this part shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(f) The department may adopt regulations to implement this part. These regulations may initially be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this part, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. Any emergency regulations adopted pursuant to this section shall not remain in effect subsequent to the date that this part is repealed pursuant to Section 15908.

(g) As an alternative to subdivision (f), and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other provision of law, the department may implement and administer this part by means of provider bulletins, county letters, manuals, or other similar instructions, without taking regulatory action. The department shall notify the fiscal and appropriate policy committees of the Legislature of its intent to issue a provider bulletin, county letter, manual, or other similar instruction, at least five days prior to issuance. In addition, the department shall provide a copy of any provider bulletin, county letter, manual, or other similar instruction issued under this paragraph to the fiscal and appropriate policy committees of the Legislature.

(h) The department shall consult with interested parties and appropriate stakeholders regarding the implementation and ongoing administration of this part.

15908. This part shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees of the Legislature, stating that the federal demonstration project provided for in this part has been terminated by the federal Centers for Medicare and Medicaid Services, and shall, six months after the date the declaration is executed, be repealed.

SEC. 3. There is hereby appropriated the sum of two hundred thousand dollars ($200,000) from the General Fund and the sum of two hundred thousand dollars ($200,000) from the Federal Trust Fund, to the State Department of Health Services for expenditure purposes for

the Health Care Coverage Initiative established pursuant to Part 3.5 (commencing with Section 15900) of Division 9 of the Welfare and Institutions Code, to fund State Department of Health Services staff positions to support activities related to the implementation, monitoring, and continuous operation, oversight and reporting on financial and other components of the Health Care Coverage Initiative in compliance with federal requirements, and the requirements of the Special Terms and Conditions of California's Section 1115 Medi-Cal Hospital/Uninsured Care Demonstration, Number 11-W-00193/9.

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

In order to implement the federal Medicaid demonstration project waiver number 11-W-00193/9 and to ensure that uninsured individuals who need health care receive that care at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 77

An act to amend Section 11472.1 of the Food and Agricultural Code, to amend Sections 7361, 12015, and 13007 of, and to add Section 13001.5 to, the Fish and Game Code, to amend Section 51283 of, and to add Sections 12805.6 and 67125 to, the Government Code, to amend Sections 25160, 25173.6, 25173.7, 25192, 25205.6, 25205.15, 25297.1, 25324, 25330.2, 25351.2, 25353, 25355.5, 25355.6, 25356.1, 25356.4, 25359.3, 25359.4.5, 25360, 25360.2, 25360.3, 25360.4, 25361, 25365.6, 25368.2, 25385.1, and 25385.6 of, to amend and repeal Sections 25330, 25334, 25385.3, and 25385.8 of, to add Sections 39607.4 and 42871 to, and to repeal Sections 25336, 25351.1, 25351.6, and 25385.9, and Chapter 6 (commencing with Section 42800) of Part 4 of Division 26 of, the Health and Safety Code, to amend Sections 4799.13, 5090.15, 5090.70, 30533, 42885, and 42889 of, to add Sections 4137, 5003.11, 5818.1, 5818.2, 8709.5, and 25731 to, and to repeal Chapter 8.5 (commencing with Section 25730) of Division 15 of, the Public Resources Code, to amend Section 38225 of the Vehicle Code, and to amend Sections 79441, 79452, and 79452.3 of, and to add Sections 141.5 and 79442 to, and Chapter 2.5 (commencing with Section 79473) to Division 26.4 of, the Water Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 2006. Filed with
Secretary of State July 18, 2006.]

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

SECTION 1. Section 11472.1 of the Food and Agricultural Code is amended to read:

11472.1. On or before October 31 of each year, the department shall publish a financial report regarding the preceding fiscal year and shall make this report available to the public. The report shall describe in detail the amount and source of funding for the major programmatic functions of the department and other relevant information that may aid in evaluating the scope and impact of the activities of the department.

SEC. 2. Section 7361 of the Fish and Game Code is amended to read:

7361. (a) Fees received by the department pursuant to Section 7360 shall be deposited in a separate account in the Fish and Game Preservation Fund.

(b) 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 the requirements of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3, the ecosystem restoration component of the CALFED Programmatic Record of Decision dated August 28, 2000, and applicable commission policies.

(c) 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. 3. Section 12015 of the Fish and Game Code is amended to read:

12015. (a) It is the intent of the Legislature that expeditious cleanup is the primary interest of the people of the State of California in order to protect the people and the environment of the state.

(b) In addition to any other penalty, anyone responsible for polluting, contaminating, or obstructing waters of this state, or depositing or discharging materials threatening to pollute, contaminate, or obstruct waters of this state, to the detriment of fish, plant, bird, or animal life in those waters, shall be required to remove any substance placed in the

waters, or to remove any material threatening to pollute, contaminate, or obstruct waters of this state, which can be removed, that caused the prohibited condition, or to pay the costs of the removal by the department.

(c) Prior to taking any action committing the use of state funds pursuant to this section or Section 5655, the department shall first make a reasonable effort to have the person responsible, when that person is known and readily available, remove, or agree to pay for the removal of, the substance causing the prohibited condition, if the responsible person acts expeditiously and does not cause the prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird life in the affected waters. When the responsible party is unknown or is not providing adequate and timely cleanup, the emergency reserve account of the Toxic Substances Control Account in the General Fund shall be used to provide funding for the cleanup pursuant to Section 25354 of the Health and Safety Code. When those or other funds are not available, moneys in the Fish and Wildlife Pollution Account shall be available, in accordance with subdivision (b) of Section 12017, for funding the cleanup expenses.

SEC. 4. Section 13001.5 is added to the Fish and Game Code, to read:

13001.5. (a) The department shall prepare annually, for inclusion in the Governor's Budget, a fund condition statement for the Fish and Game Preservation Fund that displays both of the following:

(1) Information relating to the total amounts of revenues and expenditures with regard to the moneys in the fund that are deposited in an account or subaccount in the fund.

(2) Information relating to revenues and expenditures with regard to all moneys in the fund that are not deposited in an account or subaccount in the fund.

(b) For the purposes of subdivision (a), the department shall prepare the fund condition statement in a manner that is similar to the fund condition statement relating to the Fish and Game Preservation Fund included in the 2003–04 Governor's Budget.

(c) The department shall prepare, for posting on its Internet Web site on or before January 10, of each year, a fund condition statement for each account or subaccount in the fund.

SEC. 5. Section 13007 of the Fish and Game Code is amended to read:

13007. (a) Notwithstanding Section 13001 and paragraph (1) of subdivision (a) of Section 13005, commencing July 1, 2006, 33 ⅓ percent of all sport fishing license fees, except license fees collected pursuant to Section 7149.8 collected pursuant to Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6 shall be deposited

into the Hatchery and Inland Fisheries Fund, which is hereby established in the State Treasury. Moneys in the fund may be expended, upon appropriation by the Legislature, to support programs of the Department of Fish and Game related to the management, maintenance, and capital improvement of California's fish hatcheries, the Heritage and Wild Trout Program, and enforcement activities related thereto, and to support other activities eligible to be funded from revenue generated by sport fishing license fees.

(b) The sport fishing license fees collected and subject to appropriation pursuant to subdivision (a) shall be used for the following purposes:

(1) For the department's attainment of the following production goals for state hatcheries, based on the sales of the following types of sport fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day; 1-day; and reduced fee.

(A) By July 1, 2007, a minimum of 2.25 pounds of released trout per sport fishing license sold in 2006, 1.75 pounds of which must be of catchable size or larger.

(B) By July 1, 2008, a minimum of 2.5 pounds of released trout per sport fishing license sold in 2007, 2.0 pounds of which must be of catchable size or larger.

(C) By July 1, 2009, and thereafter, a minimum of 2.75 pounds of released trout per sport fishing license sold in 2008, 2.25 pounds of which must be of catchable size or larger.

(D) The department shall attain these goals in compliance with Fish and Game Commission trout policies concerning catchable-sized trout stocking.

(2) To the Heritage and Wild Trout Program, two million dollars ($2,000,000), which shall be used for permanent positions and seasonal aides in each region of the state as necessary, and other activities necessary to the program.

(A) The funds allocated pursuant to this paragraph shall be used to fund seven new positions for the Heritage and Wild Trout Program.

(B) In addition to the seven new positions specified in subparagraph (A), the department may hire seasonal aides in each region of the state to assist with the operations of the Heritage and Wild Trout Program.

(3) The department shall, by July 1, 2011, ensure that 25 percent of the fish produced by state fish hatcheries are used for the purpose of initiating and managing the restoration of naturally indigenous stocks of trout to their original California source watersheds. This paragraph shall not be construed to prohibit the department from using surplus fish in waters outside of their original California source watersheds. All trout restored pursuant to this paragraph shall be native California trout, as

defined in Section 7261. The department shall attain the 25-percent restoration goal of this paragraph according to the following schedule:

(A) By July 1, 2009, 15 percent and at least four species, not including the coastal rainbow trout/steelhead.

(B) By July 1, 2010, 20 percent and at least four species, not including the coastal rainbow trout/steelhead.

(C) By July 1, 2011, and thereafter, 25 percent and at least five species, not including the coastal rainbow trout/steelhead.

(4) The department may hire additional staff for state fish hatcheries, in order to comply with the requirements of this subdivision.

(c) The department may allocate any funds under this section, not necessary to maintain the minimums specified in paragraphs (1) and (3) of subdivision (b), and after the expenditure in paragraph (2) of subdivision (b), to the Fish and Game Preservation Fund.

(d) The department may utilize federal funds to meet the funding formula specified in subdivision (a) if those funds are otherwise legally available for this purpose.

(e) A portion of the moneys subject to appropriation pursuant to subdivision (a) may be used for the purpose of obtaining scientifically valid genetic determinations of California native trout stocks, consistent with Theme 1 in the executive summary of the department's Strategic Plan for Trout Management, published November 2003.

(f) The department, by July 1, 2008, and biennially thereafter, shall report back to the fiscal and policy committees in the Legislature on the implementation of these provisions.

SEC. 6. Section 12805.6 is added to the Government Code, to read:

12805.6. The Resources Agency shall identify, for future conservation, key buffer properties adjacent to large ecologically valuable working landscapes that provide significant economic benefits to the state, such as active military or National Guard properties, whose future viability could be threatened by encroachment of incompatible land use activities. An acquisition of a land or conservation easement on property identified pursuant to this section shall occur with a willing seller.

SEC. 7. Section 51283 of the Government Code is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the land as though it were free of the contractual restriction and advise

the parties, that upon their request, the assessor shall provide all information relevant to the valuation, excluding third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon termination of all actions relating to valuation or cancellation of the contract on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner shall pay the county treasurer upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) The first two million five hundred thirty-six thousand dollars ($2,536,000) of revenue paid to the Controller pursuant to subdivision (e) in the 2004–05 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of all of the following:

(1) The cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(3) Program support costs of this chapter as administered by the Department of Conservation.

(4) Program support costs incurred by the Department of Conservation in administering the open-space subvention program (Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2).

(e) When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d) of this section and subdivision (b) of Section 51203. The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) It is the intent of the Legislature that fees paid to cancel a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.

SEC. 8. Section 67125 is added to the Government Code, to read:

67125. For purposes of the annual budget process, the agency shall be provided a baseline adjustment equivalent to fund California's two-thirds share for any increase in employee compensation or cost-of-living adjustment, in the same manner as applied to state agencies. In those instances where the methodology for determining this adjustment differs from standard state budget practices, the agency and the Department of Finance shall work together on an agreed application of this section.

SEC. 9. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, the following definitions apply:

(1) "Manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the information required by the department and that complies with all applicable federal and state regulations.

(2) "California Uniform Hazardous Waste Manifest" means either of the following:

(A) A manifest document printed and supplied by the state for a shipment initiated on or before September 4, 2006.

(B) The Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on or after September 5, 2006.

(3) For purposes of this section and Section 25205.15, a shipment is initiated on the date when the manifest is signed by the first transporter and the hazardous waste leaves the site where it is generated.

(b) (1) Except as provided in Section 25160.2 or as otherwise authorized by a variance issued by the department, any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel.

(A) The generator shall use the standard California Uniform Hazardous Waste Manifest supplied by the department for all shipments of hazardous waste initiated on and before September 4, 2006, for which a manifest is required, except as provided in paragraph (2).

(B) The generator shall use the Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for all shipments of hazardous waste initiated on and after September 5, 2006, for which a manifest is required.

(C) A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials that the person completing the manifest reasonably believes are hazardous waste.

(D) Within 30 days from the date of transport, or submission for transport, of hazardous waste, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter.

(E) In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Except as provided in Section 25160.2 or as otherwise authorized by a variance issued by the department, any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to

be hazardous by the importing country or state, a manifest in accordance with the following conditions:

(A) The generator shall use the standard California Uniform Hazardous Waste Manifest or the manifest required by the receiving state for all shipments of hazardous waste initiated on and before September 4, 2006, for which a manifest is required.

(B) The generator shall use the Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for all shipments of hazardous waste initiated on and after September 5, 2006, for which a manifest is required.

(C) The generator shall submit a copy of the manifest specified in subparagraph (A) or (B), as applicable, to the department within 30 days from the date of the transport, or submission for transport, of the hazardous waste. In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days from the date of the initial shipment, or for exports by water to foreign countries 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. Except as provided otherwise in paragraph (2) of subdivision (h) of Section 25123.3, if within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

(4) For shipments of waste that do not require a manifest pursuant to Title 40 of the Code of Federal Regulations, the department, by regulation, may establish manifest requirements that differ from the requirements of this section. The requirements for an alternative form of manifest shall ensure that the hazardous waste is transported by a registered hazardous waste transporter, that the hazardous waste is tracked, and that human health and safety and the environment are protected.

(5) (A) Notwithstanding any other provision of this section, except as provided in subparagraph (B), the generator copy of the manifest is not required to be submitted to the department for any waste transported in compliance with the consolidated manifest procedures in Section 25160.2 or when the transporter is operating pursuant to a variance issued by the department pursuant to Section 25143 authorizing the use of a consolidated manifest for waste not listed in Section 25160.2, if the generator, transporter, and facility are all identified as the same company on the hazardous waste manifest. If multiple identification numbers are used by a single company, all of the company's identification numbers shall be included in its annual transporter registration application, if those numbers will be used with the consolidated manifest procedure. Nothing in this paragraph affects the obligation of a facility operator to submit to the department a copy of a manifest pursuant to this section.

(B) If the waste subject to subparagraph (A) is transported out of state, the generator shall either ensure that the facility operator submits to the department a copy of the manifest or the generator shall submit a copy to the department that contains the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator pursuant to paragraph (3).

(c) (1) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The information requested on the manifest shall serve as the data dictionary for purposes of the developing of an electronic reporting format pursuant to Section 71062 of the Public Resources Code. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the federal act or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

(2) Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations.

(d) (1) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, any officer of the California Highway Patrol, any local health officer, any certified unified program agency, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations

and shall also enter on the shipping papers any information concerning the hazardous waste that the department may require.

(2) Any person who transports any waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(3) Any person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(4) Any person transporting hazardous waste by motor vehicle, rail, or water shall certify to the department, at the time of initial registration and at the time of renewal of that registration pursuant to this article, that the transporter is familiar with the requirements of this section, the department regulations, and federal laws and regulations governing the use of manifests.

(e) (1) Any facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days from the date of receipt of the hazardous waste. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the facility operator. In instances in which the generator or transporter is not required by the generator's state or federal law to sign the manifest, the facility operator shall require the generator and all transporters, excepting intermediate rail transporters, to sign the manifest before receiving the waste at any facility in this state. In lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Any treatment, storage, or disposal facility receiving hazardous waste generated outside this state may only accept the hazardous waste for treatment, storage, disposal, or any combination thereof, if the hazardous waste is accompanied by a completed standard California Uniform Hazardous Waste Manifest.

(3) A facility operator may accept hazardous waste generated offsite that is not accompanied by a properly completed and signed standard

California Uniform Hazardous Waste Manifest if the facility operator meets both of the following conditions:

(A) The facility operator is authorized to accept the hazardous waste pursuant to a hazardous waste facilities permit or other grant of authorization from the department.

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures applicable to the receipt of hazardous waste under these circumstances.

(4) This subdivision applies only to shipments of hazardous waste for which a manifest is required pursuant to this section and the regulations adopted pursuant to this section.

(f) A generator, transporter, or facility operator may comply with the requirements of Sections 66262.40, 66263.22, 66264.71, and 66265.71 of Title 22 of the California Code of Regulations by storing manifest information electronically. A generator, transporter, or facility operator who stores manifest information electronically shall use the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code and the stored information shall include all the information required to be retained by the department, including all signatures required by this section.

(g) The department shall make available for review, by any interested party, the department's plans for revising and enhancing its system for tracking hazardous waste for the purposes of protecting human health and the environment, enforcing laws, collecting revenue, and generating necessary reports.

SEC. 10. Section 25173.6 of the Health and Safety Code is amended to read:

25173.6. (a) There is in the General Fund the Toxic Substances Control Account, which shall be administered by the director. In addition to any other money that may be appropriated by the Legislature to the Toxic Substances Control Account, all of the following shall be deposited in the account:

(1) The fees collected pursuant to Section 25205.6.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(3) Any fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396), except as directed otherwise by Section 25192.

(4) Any interest earned upon money deposited in the Toxic Substances Control Account.

(5) All money recovered pursuant to Section 25360, except any amount recovered on or before June 30, 2006, that was paid from the Hazardous Substance Cleanup Fund.

(6) All money recovered pursuant to Section 25380.

(7) Any reimbursements for funds expended from the Toxic Substances Control Account for services provided by the department, including, but not limited to, reimbursements required pursuant to Sections 25201.9 and 25343.

(8) Any money received from the federal government pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) Any money received from responsible parties for remedial action or removal at a specific site, except as otherwise provided by law.

(b) The funds deposited in the Toxic Substances Control Account may be appropriated to the department for the following purposes:

(1) The administration and implementation of the following:

(A) Chapter 6.8 (commencing with Section 25300), except that no funds may be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

(B) Chapter 6.85 (commencing with Section 25396).

(C) Chapter 6.11 (commencing with Section 25404), on and before June 30, 1999.

(D) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.

(2) The administration of the following units within the department:

(A) The Human and Ecological Risk Division.

(B) The Hazardous Materials Laboratory.

(C) The Office of Pollution Prevention and Technology Development.

(3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in administering the programs described in subparagraphs (A) and (B) of paragraph (1).

(4) For allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation Code.

(5) For the state share mandated pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

(6) For the purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(7) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance, to the extent the costs are not reimbursed by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars ($500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(11) For the reasonable and necessary administrative costs and expenses of the Hazardous Substance Cleanup Arbitration Panel created pursuant to Section 25356.2.

(12) Direct site remediation costs.

(13) For the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

(14) For the administration and collection of the fees imposed pursuant to Section 25205.6.

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.85

(commencing with Section 25396). Expenditures for the purposes of this subdivision are not subject to an interagency or interdepartmental agreement.

(d) The director shall expend federal funds in the Toxic Substances Control Account consistent with the requirements specified in Section 114 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(e) Money in the Toxic Substances Control Account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside the state.

(f) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Toxic Substances Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(g) The Toxic Substances Control Account established pursuant to subdivision (a) is the successor fund of all of the following:

(1) The Hazardous Substance Account established pursuant to Section 25330, as that section read on June 30, 2006.

(2) The Hazardous Substance Clearing Account established pursuant to Section 25334, as that section read on June 30, 2006.

(3) The Hazardous Substance Cleanup Fund established pursuant to Section 25385.3, as that section read on June 30, 2006.

(4) The Superfund Bond Trust Fund established pursuant to Section 25385.8, as that section read on June 30, 2006.

(h) On and after July 1, 2006, all assets, liabilities, and surplus of the accounts and funds listed in subdivision (g), shall be transferred to, and become a part of, the Toxic Substances Control Account, as provided by Section 16346 of the Government Code. All existing appropriations from these accounts, to the extent encumbered, shall continue to be available for the same purposes and periods from the Toxic Substances Control Account.

(i) Notwithstanding Section 7550.5 of the Government Code, the department, on or before February 1 of each year, shall report to the Governor and the Legislature on the prior fiscal year's expenditure of funds within the Toxic Substances Control Account for the purposes specified in subdivision (b).

SEC. 11. Section 25173.7 of the Health and Safety Code is amended to read:

25173.7. (a) It is the intent of the Legislature that funds deposited in the Toxic Substances Control Account shall be appropriated in the annual Budget Act each year in the following manner:

(1) Not less than six million seven hundred fifty thousand dollars ($6,750,000) to the Site Remediation Account in the General Fund for direct site remediation costs, as defined in Section 25337. The amount specified in this paragraph shall be increased in any fiscal year by the amount of increased revenues specified by the Legislature in the Budget Act for that fiscal year pursuant to subdivision (f) of Section 25205.6.

(2) Not less than four hundred thousand dollars ($400,000) to the Expedited Site Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a) of Section 25399.1, for purposes of paying the orphan share of response costs pursuant to Chapter 6.85 (commencing with Section 25396).

(3) Not more than five hundred thousand dollars ($500,000) for purposes of the administration and collection of the fees specified in paragraph (14) of subdivision (b) of Section 25173.6.

(4) Commencing with the 1999–2000 fiscal year and annually thereafter, not less than one million fifty thousand dollars ($1,050,000) for purposes of establishing and implementing a program pursuant to Sections 25244.15.1, 25244.17.1, 25244.17.2, 25244.22, and 25244.24 to encourage hazardous waste generators to implement pollution prevention measures.

(5) Funds not appropriated as specified in paragraphs (1) to (4), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (14) of, subdivision (b) of Section 25173.6.

(b) (1) The amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) are the amounts that the Legislature intends to appropriate for the 1998–99 fiscal year for the purposes specified in those paragraphs, and the amount specified in paragraph (4) of subdivision (a) is the amount the Legislature intends to appropriate for the 1999–2000 fiscal year for the purposes specified in that paragraph. Beginning with the 1999–2000 fiscal year, and for each fiscal year thereafter, the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a), and beginning with the 2000–01 fiscal year, and for each fiscal year thereafter, the amount specified in paragraph (4) of subdivision (a) shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(2) Notwithstanding paragraph (1), the department may, upon the approval of the Legislature in a statute or the annual Budget Act, take either of the following actions:

(A) Reduce the amounts specified in paragraphs (1) to (4), inclusive, of subdivision (a), if there are insufficient funds in the Toxic Substances Control Account.

(B) Suspend the transfer specified in paragraph (2) of subdivision (a), if there are no orphan shares pending payment pursuant to Chapter 6.85 (commencing with Section 25396).

SEC. 12. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil and criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited in the Toxic Substances Control Account in the General Fund.

(2) Twenty-five percent shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the CUPA, the local health officer, or other local public officer or agency authorized to enforce the provisions of this chapter pursuant to Section 25180, whichever entity investigated the matter that led to the bringing of the action. If investigation by the local police department or sheriff's office or California Highway Patrol led to the bringing of the action, the CUPA, the local health officer, or the authorized officer or agency, shall pay a total of 40 percent of its portion under this subdivision to that investigating agency or agencies to be used for the same purpose. If more than one agency is eligible for payment under this paragraph, division of payment among the eligible agencies shall be in the discretion of the CUPA, the local health officer, or the authorized officer or agency.

(b) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil penalty before the amount is apportioned pursuant to subdivision (a).

SEC. 13. Section 25205.6 of the Health and Safety Code is amended to read:

25205.6. (a) For purposes of this section, "organization" means a corporation, limited liability company, limited partnership, limited liability partnership, general partnership, and sole proprietorship.

(b) On or before November 1 of each year, the department shall provide the board with a schedule of codes, that consists of the types of organizations that use, generate, store, or conduct activities in this state related to hazardous materials, as defined in Section 25501, including,

but not limited to, hazardous waste. The schedule shall consist of identification codes from one of the following classification systems, as deemed suitable by the department:

(1) The Standard Industrial Classification (SIC) system established by the United States Department of Commerce.

(2) The North American Industry Classification System (NAICS) adopted by the United States Census Bureau.

(c) Each organization of a type identified in the schedule adopted pursuant to subdivision (a) shall pay an annual fee, which shall be set in the following amounts:

(1) Two hundred dollars ($200) for those organizations with 50 or more employees, but less than 75 employees.

(2) Three hundred fifty dollars ($350) for those organizations with 75 or more employees, but less than 100 employees.

(3) Seven hundred dollars ($700) for those organizations with 100 or more employees, but less than 250 employees.

(4) One thousand five hundred dollars ($1,500) for those organizations with 250 or more employees, but less than 500 employees.

(5) Two thousand eight hundred dollars ($2,800) for those organizations with 500 or more employees, but less than 1,000 employees.

(6) Nine thousand five hundred dollars ($9,500) for those organizations with 1,000 or more employees.

(d) The fee imposed pursuant to this section shall be paid by each organization that is identified in the schedule adopted pursuant to subdivision (a) in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code and shall be deposited in the Toxic Substances Control Account. The revenues shall be available, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25173.6.

(e) For purposes of this section, the number of employees employed by an organization is the number of persons employed in this state for more than 500 hours during the calendar year preceding the calendar year in which the fee is due.

(f) The fee rates specified in subdivision (c) are the rates for the 1998 calendar year. Beginning with the 1999 calendar year, and for each calendar year thereafter, the State Board of Equalization shall adjust the rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(g) (1) Pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)), the

state is obligated to pay specified costs of removal and remedial actions carried out pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(2) The fee rates specified in subdivision (c) are intended to provide sufficient revenues to fund the purposes of subdivision (b) of Section 25173.6, including appropriations in any given fiscal year of three million three hundred thousand dollars ($3,300,000) to fund the state's obligation pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

(3) If the department determines that the state's obligation under paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)) will exceed three million three hundred thousand dollars ($3,300,000) in any fiscal year, the department shall report that determination to the Legislature in the Governor's Budget. If, as part of the Budget Act deliberations, the Legislature concurs with the department's determination, the Legislature shall specify in the annual Budget Act those pro rata changes to the fee rates specified in subdivision (c) that will increase revenues in the next calendar year as necessary to fund the state's increased obligations. However, the Legislature shall not specify fee rates in the annual Budget Act that increase revenues in an amount greater than eight million two hundred thousand dollars ($8,200,000) above the revenues provided by the fee rates specified in subdivision (c).

(4) Any changes in the fee rates approved by the Legislature in the annual Budget Act pursuant to this subdivision shall have effect only on the fee payment that is due and payable by the end of February in the fiscal year for which that annual Budget Act is enacted.

(h) This section does not apply to a nonprofit corporation primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on their ability for self-care, as described in SIC Code 8361 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(i) The changes made to this section by the act of the 2005–06 Regular Session of the Legislature amending this section shall not increase fee revenues in the 2006–07 fiscal year.

SEC. 14. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, and except as provided

in paragraph (2), in addition to any fees to cover printing and distribution costs, the department shall impose a manifest fee of seven dollars and fifty cents ($7.50) for each California Hazardous Waste Manifest form or electronic equivalent used after June 30, 1998, by any person, in the following manner:

(1) The department shall bill generators for each California Uniform Hazardous Waste Manifest form, manifest number, or electronic equivalent used after June 30, 1998. The billing frequency specified by the department may range from monthly to annually, with the payment by the generator required within 30 days from the date of receipt of the billing, and shall be determined based on consultation with the regulated community. In preparing the bills, the department shall distinguish between manifests used solely for recycled hazardous wastes and those used for nonrecycled hazardous wastes. In determining the billing frequency, the department may take into account each person's volume of manifest usage.

(2) (A) The manifest fee shall not be collected on the use of California Hazardous Waste Recycling Manifests that are used solely for hazardous wastes that are recycled.

(B) The manifest fee for each California Uniform Hazardous Waste Manifest form used solely for hazardous waste derived from air compliance solvents, shall be three dollars and fifty cents ($3.50) This is in addition to any fees charged to cover printing and distribution costs.

(3) The department shall implement a system for the use of manifests that distinguishes among recycling manifests used solely for hazardous wastes that are to be recycled, manifests used solely to transport hazardous waste derived from air compliance solvents, and general manifests that may be used for transporting waste for any purpose.

(4) (A) If a person erroneously reports on a California Uniform Hazardous Waste Manifest that the manifest is being used for the transport of hazardous wastes that are being shipped for recycling or for the transport of hazardous wastes derived from air compliance solvents rather than the transport of other types of hazardous waste, the person shall pay the seven dollars and fifty cents ($7.50) manifest fee and an additional error correction fee of twenty dollars ($20) per manifest, as required pursuant to Section 25160.5.

(B) Notwithstanding subparagraph (A) the department shall provide the manifest user with a reasonable opportunity to notify the department of any incorrect use of the recycling manifest, as described in subparagraph (A), and to provide the department with the appropriate manifest fee payment without additional fines, penalties, or payment of the error correction fee.

(5) The department may adopt regulations to implement and administer the manifest fee system imposed pursuant to this subdivision.

(b) For purposes of subdivision (a), a California Uniform Hazardous Waste Manifest means either of the following:

(1) A manifest document printed and supplied by the state for a shipment initiated on and before September 4, 2006.

(2) The Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on and after September 5, 2006, if the manifest originates from a generator located in California, is received by the designated facility located in California where the manifest is signed and terminated, or is imported or exported through a point of entry or exit in California.

(c) On and after July 1, 1999, commencing with 1999–2000 fiscal year and annually thereafter, the department shall expend, upon appropriation by the Legislature in the annual Budget Act, not less than one million fifty thousand dollars ($1,050,000) from the manifest fees, deposited in the Hazardous Waste Control Account, to establish a program to encourage hazardous waste generators to implement pollution prevention measures. The program shall be administered pursuant to administrative and expenditure criteria to be established by the Legislature.

(d) The manifest fees shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature.

(e) For purposes of this section, "air compliance solvent" means a solvent, including aqueous solutions, that are required or approved for use by regulations adopted by the State Air Resources Board, an air pollution control district, or an air quality management district, to meet air emission standards adopted by that board or district and, pursuant to those regulations, is required to be used instead of another solvent that was used and recycled prior to the adoption of those regulations.

SEC. 15. Section 25297.1 of the Health and Safety Code is amended to read:

25297.1. (a) In addition to the authority granted to the board pursuant to Division 7 (commencing with Section 13000) of the Water Code and to the department pursuant to Chapter 6.8 (commencing with Section 25300), the board, in cooperation with the department, shall develop and implement a local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by local agencies. In implementing the local oversight program, the agreement specified in subdivision (b) shall be between the board and the local agency. The board shall select local

agencies for participation in the program from among those local agencies that apply to the board, giving first priority to those local agencies that have demonstrated prior experience in cleanup, abatement, or other actions necessary to remedy the effects of unauthorized releases of hazardous substances from underground storage tanks. The board shall select only those local agencies that have implemented this chapter and that, except as provided in Section 25404.5, have begun to collect and transmit to the board the surcharge or fees pursuant to subdivision (b) of Section 25287.

(b) In implementing the local oversight program described in subdivision (a), the board may enter into an agreement with any local agency to perform, or cause to be performed, any cleanup, abatement, or other action necessary to remedy the effects of a release of hazardous substances from an underground storage tank with respect to which the local agency has enforcement authority pursuant to this section. The board may not enter into an agreement with a local agency for soil contamination cleanup or for groundwater contamination cleanup unless the board determines that the local agency has a demonstrated capability to oversee or perform the cleanup. The implementation of the cleanup, abatement, or other action shall be consistent with procedures adopted by the board pursuant to subdivision (d) and shall be based upon cleanup standards specified by the board or regional board.

(c) The board shall provide funding to a local agency that enters into an agreement pursuant to subdivision (b) for the reasonable costs incurred by the local agency in overseeing any cleanup, abatement, or other action taken by a responsible party to remedy the effects of unauthorized releases from underground storage tanks.

(d) The board shall adopt administrative and technical procedures, as part of the state policy for water quality control adopted pursuant to Section 13140 of the Water Code, for cleanup and abatement actions taken pursuant to this section. The procedures shall include, but not be limited to, all of the following:

(1) Guidelines as to which sites may be assigned to the local agency.

(2) The content of the agreements which may be entered into by the board and the local agency.

(3) Procedures by which a responsible party may petition the board or a regional board for review, pursuant to Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of the Water Code, or pursuant to Chapter 9.2 (commencing with Section 2250) of Division 3 of Title 23 of the California Code of Regulations, or any successor regulation, as applicable, of actions or decisions of the local agency in implementing the cleanup, abatement, or other action.

(4) Protocols for assessing and recovering money from responsible parties for any reasonable and necessary costs incurred by the local agency in implementing this section, as specified in subdivision (i), unless the cleanup or abatement action is subject to subdivision (d) of Section 25296.10.

(5) Quantifiable measures to evaluate the outcome of a pilot program established pursuant to this section.

(e) Any agreement between the regional board and a local agency to carry out a local oversight program pursuant to this section shall require both of the following:

(1) The local agency shall establish and maintain accurate accounting records of all costs it incurs pursuant to this section and shall periodically make these records available to the board. The Controller may annually audit these records to verify the hourly oversight costs charged by a local agency. The board shall reimburse the Controller for the cost of the audits of a local agency's records conducted pursuant to this section.

(2) The board and the department shall make reasonable efforts to recover costs incurred pursuant to this section from responsible parties, and may pursue any available legal remedy for this purpose.

(f) The board shall develop a system for maintaining a database for tracking expenditures of funds pursuant to this section, and shall make this data available to the Legislature upon request.

(g) (1) Sections 25355.5 and 25356 do not apply to expenditures from the Toxic Substances Control Account for oversight of abatement of releases from underground storage tanks as part of the local oversight program established pursuant to this section.

(2) A local agency that enters into an agreement pursuant to subdivision (b) shall notify the responsible party, for any site subject to a cleanup, abatement, or other action taken pursuant to the local oversight program established pursuant to this section, that the responsible party is liable for not more than 150 percent of the total amount of site-specific oversight costs actually incurred by the local agency.

(h) Any aggrieved person may petition the board or regional board for review of the action or failure to act of a local agency that enters into an agreement pursuant to subdivision (b), at a site subject to cleanup, abatement, or other action conducted as part of the local oversight program established pursuant to this section, in accordance with the procedures adopted by the board or regional board pursuant to subdivision (d).

(i) (1) For purposes of this section, site-specific oversight costs include only the costs of the following activities, when carried out by the staff of a local agency or the local agency's authorized representative, that are either technical program staff or their immediate supervisors:

(A) Responsible party identification and notification.
(B) Site visits.
(C) Sampling activities.
(D) Meetings with responsible parties or responsible party consultants.
(E) Meetings with the regional board or with other affected agencies regarding a specific site.
(F) Review of reports, workplans, preliminary assessments, remedial action plans, or postremedial monitoring.
(G) Development of enforcement actions against a responsible party.
(H) Issuance of a closure document.

(2) The responsible party is liable for the site-specific oversight costs, calculated pursuant to paragraphs (3) and (4), incurred by a local agency, in overseeing any cleanup, abatement, or other action taken pursuant to this section to remedy an unauthorized release from an underground storage tank.

(3) Notwithstanding the requirements of any other provision of law, the amount of liability of a responsible party for the oversight costs incurred by the local agency and by the board and regional boards in overseeing any action pursuant to this section shall be calculated as an amount not more than 150 percent of the total amount of the site-specific oversight costs actually incurred by the local agency and shall not include the direct or indirect costs incurred by the board or regional boards.

(4) (A) The total amount of oversight costs for which a local agency may be reimbursed shall not exceed one hundred fifteen dollars ($115) per hour, multiplied by the total number of site-specific hours performed by the local agency.

(B) The total amount of the costs per site for administration and technical assistance to local agencies by the board and the regional board entering into agreements pursuant to subdivision (b) shall not exceed a combined total of thirty-five dollars ($35) for each hour of site-specific oversight. The board shall base its costs on the total hours of site-specific oversight work performed by all participating local agencies. The regional board shall base its costs on the total number of hours of site-specific oversight costs attributable to the local agency that received regional board assistance.

(C) The amounts specified in subparagraphs (A) and (B) are base rates for the 1990–91 fiscal year. Commencing July 1, 1991, and for each fiscal year thereafter, the board shall adjust the base rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the implicit price deflator for state and local government purchases of goods and services, as published by the United States Department of Commerce or by a successor agency of the federal government.

(5) In recovering costs from responsible parties for costs incurred under this section, the local agency shall prorate any costs identifiable as startup costs over the expected number of cases that the local agency will oversee during a 10-year period. A responsible party who has been assessed startup costs for the cleanup of any unauthorized release that, as of January 1, 1991, is the subject of oversight by a local agency, shall receive an adjustment by the local agency in the form of a credit, for the purposes of cost recovery. Startup costs include all of the following expenses:

(A) Small tools, safety clothing, cameras, sampling equipment, and other similar articles necessary to investigate or document pollution.

(B) Office furniture.

(C) Staff assistance needed to develop computer tracking of financial and site-specific records.

(D) Training and setup costs for the first six months of the local agency program.

(6) This subdivision does not apply to costs that are required to be recovered pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8.

(j) (1) Notwithstanding subdivisions (a) and (b), the board may enter into an agreement with a local agency and the Santa Clara Valley Water District to implement the local oversight program in Santa Clara County.

(2) Paragraph (1) shall remain operative only until June 30, 2005.

(3) The inoperation of paragraph (1) does not affect the validity of any action taken by the Santa Clara Valley Water District before June 30, 2005, and does not provide a defense for an owner, operator, or other responsible party who fails to comply with that action.

(k) If the board enters into an agreement with a local agency and the Santa Clara Valley Water District to implement the local oversight program in Santa Clara County, pursuant to subdivision (j), the board may provide funding to the Santa Clara Valley Water District pursuant to subdivision (d) of Section 25299.51 for oversight costs incurred by the district on and after July 1, 2002, to June 30, 2005.

SEC. 16. Section 25324 of the Health and Safety Code is amended to read:

25324. (a) "State account" means the Toxic Substances Control Account established pursuant to Section 25173.6.

(b) Notwithstanding any other provision of this section, any costs incurred and payable from the Hazardous Substance Account, the Hazardous Waste Control Account, or the Site Remediation Account prior to July 1, 2006, to implement this chapter, shall be recoverable from the liable person or persons pursuant to Section 25360 as if the costs were incurred and payable from the state account.

SEC. 17. Section 25330 of the Health and Safety Code is amended to read:

25330. (a) There is in the General Fund the Hazardous Substance Account which shall be administered by the director. In addition to any other money appropriated by the Legislature to the account, the following amounts shall be deposited in the account:

(1) Any interest earned on money deposited in the account.

(2) Any money transferred from the state account pursuant to Section 25173.6 or 25336.

(b) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 25330.2 of the Health and Safety Code is amended to read:

25330.2. Funds in the Site Remediation Account appropriated for removal or remedial action pursuant to this chapter are available for encumbrance for three fiscal years subsequent to the fiscal year in which the funds are appropriated and are available for disbursement in liquidation of encumbrances pursuant to Section 16304.1 of the Government Code.

SEC. 19. Section 25334 of the Health and Safety Code is amended to read:

25334. (a) There is within the state account, the Hazardous Substance Clearing Account, which shall be used to pay the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385). All of the following moneys shall be deposited in the account for the payment of the principal of, and interest on, bonds:

(1) Transfers from the Superfund Bond Trust Fund made pursuant to Section 25385.8.

(2) Amounts received pursuant to Sections 25356.4 and 25360, as specified in those sections, if the expenditures for removal or remedial actions were paid from the proceeds of the bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(3) Federal moneys received pursuant to the federal act which are designated to be used for removal or remedial actions paid for by proceeds from the bonds issued pursuant to Article 7.5 (commencing with Section 25385).

(4) Any moneys appropriated by the Legislature for the payment of the principal of, and interest on, these bonds.

(5) Any moneys derived from the premiums and accrued interest on these bonds.

(b) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 20. Section 25336 of the Health and Safety Code is repealed.

SEC. 21. Section 25351.1 of the Health and Safety Code is repealed.

SEC. 22. Section 25351.2 of the Health and Safety Code is amended to read:

25351.2. (a) A city or county may initiate a removal or remedial action for a site listed pursuant to Section 25356 in accordance with this section. Except as provided in subdivision (d), the city or county shall, before commencing the removal or remedial action, take all of the following actions:

(1) The city or county shall notify the department of the planned removal or remedial action. Upon receiving this notification, the department shall make a reasonable effort to notify any person identified by the department as a potentially responsible party for the site. If a potentially responsible party is taking the removal or remedial action properly and in a timely fashion, or if a potentially responsible party will commence such an action within 60 days of this notification, the city or county may not initiate a removal or remedial action pursuant to this section.

(2) If a potentially responsible party for the site has not taken the action specified in paragraph (1), the city or county shall submit the estimated cost of the removal or remedial action to the department, which shall, within 30 days after receiving the estimate, approve or disapprove the reasonableness of the cost estimate. If the department disagrees with the cost estimate, the city or county and the department shall, within 30 days, attempt to enter into an agreement concerning the cost estimate.

(3) The city or county shall demonstrate to the department that it has sufficient funds to carry out the approved removal or remedial action without taking into account any costs of the action that may be, or have been, paid by a potentially responsible party.

(b) If the director approves the request of the city or county to initiate a removal or remedial action and a final remedial action plan has been issued pursuant to Section 25356.1 for the hazardous substance release site, the city or county shall be deemed to be acting in place of the department for purposes of implementing the remedial action plan pursuant to this chapter.

(c) Upon reimbursing a city or county for the costs of a removal or remedial action, the department shall recover these costs pursuant to Section 25360.

(d) In order for a city or county to be reimbursed for the costs of a removal or remedial action incurred by the city or county from the state account, the city or county shall obtain the approval of the director before commencing the removal or remedial action. The director shall grant an approval only when all actions required by law prior to implementation of a remedial action plan have been taken.

SEC. 23. Section 25351.6 of the Health and Safety Code is repealed.

SEC. 24. Section 25353 of the Health and Safety Code is amended to read:

25353. (a) Except as provided in (b), the department may not expend funds from the state account for a removal or remedial action with respect to a hazardous substance release site owned or operated by the federal government or a state or local agency at the time of disposal to the extent that the federal government or the state or local agency would otherwise be liable for the costs of that action, except that the department may expend those funds, upon appropriation by the Legislature, to oversee the carrying out of a removal or remedial action at the site by another party.

(b) Except as provided in subdivision (f), the department may expend funds from the state account, upon appropriation by the Legislature, to take a removal or remedial action at a hazardous substance release site which was owned or operated by a local agency at the time of release, if all of the following requirements are met:

(1) The department has substantial evidence that a local agency is not the only responsible party for the site.

(2) The department has issued a cleanup order to, or entered into an enforceable agreement with, the local agency pursuant to Section 25355.5 and has made a final determination that the local agency is not in compliance with the order or enforceable agreement.

(c) The department shall recover any funds expended pursuant to subdivision (a) or (b) to the maximum possible extent pursuant to Section 25360.

(d) If a local agency is identified as a potentially responsible party in a remedial action plan prepared pursuant to Section 25356.1, and the department expends funds pursuant to this chapter to pay for the local agency's share of the removal and remedial action, the expenditure of these funds shall be deemed to be a loan from the state to the local agency. If the department determines that the local agency is not making adequate progress toward repaying the loan made pursuant to this section, the State Board of Equalization shall, upon notice by the department, withhold the unpaid amount of the loan, in increments from the sales and use tax transmittals made pursuant to Section 7204 of the Revenue and Taxation Code, to the city or county in which the local agency is

located. The State Board of Equalization shall structure the amounts to be withheld so that complete repayment of the loan, together with interest and administrative charges, occurs within five years after a local agency has been notified by the department of the amount which it owes. The State Board of Equalization shall deposit any funds withheld pursuant to this section into the state account.

(e) The department may not expend funds from the state account for the purposes specified in Section 25352 where the injury, degradation, destruction, or loss to natural resources, or the release of a hazardous substance from which the damages to natural resources resulted, has occurred prior to September 25, 1981.

(f) The department may not expend funds from the state account for a removal or remedial action at any waste management unit owned or operated by a local agency if it meets both of the following conditions:

(1) It is classified as a class III waste management unit pursuant to Subchapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California Administrative Code.

(2) It was in operation on or after January 1, 1988.

SEC. 25. Section 25355.5 of the Health and Safety Code is amended to read:

25355.5. (a) Except as provided in subdivisions (b), (c), and (d), no money shall be expended from the state account for removal or remedial actions on any site selected for inclusion on the list established pursuant to Section 25356, unless the department first takes both of the following actions:

(1) The department issues one of the following orders or enters into the following agreement:

(A) The department issues an order specifying a schedule for compliance or correction pursuant to Section 25187.

(B) The department issues an order establishing a schedule for removing or remedying the release of a hazardous substance at the site, or for correcting the conditions that threaten the release of a hazardous substance. The order shall include, but is not limited to, requiring specific dates by which necessary corrective actions shall be taken to remove the threat of a release, or dates by which the nature and extent of a release shall be determined and the site adequately characterized, a remedial action plan shall be prepared, the remedial action plan shall be submitted to the department for approval, and a removal or remedial action shall be completed.

(C) The department enters into an enforceable agreement with a potentially responsible party for the site that requires the party to take necessary corrective action to remove the threat of the release, or to determine the nature and extent of the release and adequately characterize

the site, prepare a remedial action plan, and complete the necessary removal or remedial actions, as required in the approved remedial action plan.

Any enforceable agreement entered into pursuant to this section may provide for the execution and recording of a written instrument that imposes an easement, covenant, restriction, or servitude, or combination thereof, as appropriate, upon the present and future uses of the site. The instrument shall provide that the easement, covenant, restriction, or servitude, or combination thereof, as appropriate, is subject to the variance or removal procedures specified in Sections 25233 and 25234. Notwithstanding any other provision of law, an easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, executed pursuant to this section and recorded so as to provide constructive notice runs with the land from the date of recordation, is binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, or lessees of the owners, heirs, successors, and assignees, and is enforceable by the department pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5.

(2) The department determines, in writing, that the potentially responsible party or parties for the hazardous substance release site have not complied with all of the terms of an order issued pursuant to subparagraph (A) or (B) of paragraph (1) or an agreement entered into pursuant to subparagraph (C) of paragraph (1). Before the department determines that a potentially responsible party is not in compliance with the order or agreement, the department shall give the potentially responsible party written notice of the proposed determination and an opportunity to correct the noncompliance or show why the order should be modified. After the department has made the final determination that a potentially responsible party is not in compliance with the order or agreement, the department may expend money from the state account for a removal or remedial action.

(b) Subdivision (a) does not apply, and money from the state account shall be available, upon appropriation by the Legislature, for removal or remedial actions, if any of the following conditions apply:

(1) The department, after a reasonable effort, is unable to identify a potential responsible party for the hazardous substance release site.

(2) The department determines that immediate corrective action is necessary, as provided in Section 25354.

(3) The director determines that removal or remedial action at a site is necessary because there may be an imminent and substantial endangerment to the public health or welfare or to the environment.

(c) Notwithstanding subdivision (a), the department may expend funds, upon appropriation by the Legislature, from the state account to

conduct activities necessary to verify that an uncontrolled release of hazardous substances has occurred at a suspected hazardous substance release site, to issue an order or enter into an enforceable agreement pursuant to paragraph (1) of subdivision (a), and to review, comment upon, and approve or disapprove remedial action plans submitted by potentially responsible parties subject to the orders or the enforceable agreement.

(d) Notwithstanding subdivision (a), the department may expend funds, upon appropriation by the Legislature, from the state account, to provide for oversight of removal and remedial actions, or, if the site is also listed on the federal act (42 U.S.C. Sec. 9604(c)(3)), to provide the state's share of a removal or remedial action.

(e) A responsible party who fails, as determined by the department in writing, to comply with an order issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a), or to comply with all of the terms of an enforceable agreement entered into pursuant to subparagraph (C) of paragraph (1) of subdivision (a), shall be deemed, for purposes of subdivision (b) of Section 25355, to have failed to take action properly and in a timely fashion with respect to a hazardous substance release or a threatened release.

SEC. 26. Section 25355.6 of the Health and Safety Code is amended to read:

25355.6. (a) The State Water Resources Control Board or a California regional water quality control board that has jurisdiction over a hazardous substance release site pursuant to Division 7 (commencing with Section 13000) of the Water Code may refer the site to the department as a candidate for listing pursuant to Section 25356. After determining that the site meets the criteria adopted pursuant to subdivision (a) of Section 25356, the department may place the site on the list of sites subject to this chapter and establish its priority ranking pursuant to Section 25356.

(b) If a hazardous substance release site is referred to the department and is listed pursuant to subdivision (a), the department may expend money from the state account for removal or remedial action at the site, upon appropriation by the Legislature, without first issuing an order or entering into an agreement pursuant to paragraph (1) of subdivision (a) of Section 25355.5, if all of the following apply:

(1) The State Water Resources Control Board or a California regional water quality control board has issued either a cease and desist order pursuant to Section 13301 of the Water Code or a cleanup and abatement order pursuant to Section 13304 of the Water Code to the potentially responsible party for the site.

(2) The State Water Resources Control Board or the California regional water quality control board has made a final finding that the potentially responsible party has not complied with the order issued pursuant to paragraph (1).

(3) The State Water Resources Control Board or the California regional water quality control board has notified the potentially responsible party of the determination made pursuant to paragraph (2) and that the hazardous substance release site has been referred to the department pursuant to subdivision (a).

(c) If a hazardous substance release site is referred to the department pursuant to subdivision (a), and the department makes either of the following determinations, the department shall notify the appropriate California regional water quality control board and the State Water Resources Control Board:

(1) The department determines that the site does not meet the criteria established pursuant to subdivision (a) and the site cannot be placed, pursuant to Section 25356, on the list of sites subject to this chapter.

(2) The department determines that a removal or remedial action at the site will not commence for a period of one year from the date of listing due to a lack of funds or the low priority of the site.

(d) If a California regional water resources control board or the State Water Resources Control Board receives a notice pursuant to subdivision (c), the regional board or state board may take any further action concerning the hazardous substance release site which the regional board or state board determines to be necessary or feasible, and which is authorized by this chapter or Division 7 (commencing with Section 13000) of the Water Code.

SEC. 27. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) For purposes of this section, "regional board" means a California regional water quality control board and "state board" means the State Water Resources Control Board.

(b) Except as provided in subdivision (h), the department, or, if appropriate, the regional board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(c) A potentially responsible party may request the department or the regional board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356, if the department or the regional board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the regional board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional board to issue and enforce a

cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(d) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart E of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.400 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or the regional board shall consider the extent to which remedial action measures are available that use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions that do not use this treatment. The department or the regional board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site-specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures. In evaluating the cost-effectiveness of proposed alternative remedial action measures, the department or the regional board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated

hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(e) A remedial action plan prepared pursuant to this section shall include the basis for the remedial action selected and shall include an evaluation of each alternative considered and rejected by the department or the regional board for a particular site. The plan shall include an explanation for rejection of alternative remedial actions considered but rejected. The plan shall also include an evaluation of the consistency of the selected remedial action with the requirements of the federal regulations and the factors specified in subdivision (d), if those factors are not otherwise adequately addressed through compliance with the federal regulations. The remedial action plan shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(f) After complying with subdivision (e), the department or the regional board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional board shall then issue the final remedial action plan.

(g) (1) A potentially responsible party named in the final remedial action plan issued by the department or the regional board may seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final remedial action plan is issued by the department or the regional board. Any other person who has the right to seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure shall do so within one year after the final remedial action plan is issued. No action may be brought by a potentially responsible party to review the final remedial action plan if the petition for writ of mandate is not filed within 30 days of the date that the final remedial action plan was issued. No action may be brought by any other person to review the final remedial action plan if the petition for writ of mandate is not filed within one year of the date that the final remedial action plan was issued. The filing of a petition for writ of mandate to review the final remedial action plan shall not stay any removal or remedial action specified in the final plan.

(2) For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional board, as the case may be.

(3) This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(h) (1) This section does not require the department or a regional board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment or, if the department, a regional board, or a responsible party takes a removal action at a site and the estimated cost of the removal action is less than one million dollars ($1,000,000). The department or a regional board shall prepare or approve a removal action workplan for all sites where a nonemergency removal action is proposed and where a remedial action plan is not required. For sites where removal actions are planned and are projected to cost less than one million dollars ($1,000,000), the department or a regional board shall make the local community aware of the hazardous substance release site and shall prepare, or direct the parties responsible for the removal action to prepare, a community profile report to determine the level of public interest in the removal action. Based on the level of expressed interest, the department or regional board shall take appropriate action to keep the community informed of project activity and to provide

opportunities for public comment which may include conducting a public meeting on proposed removal actions.

(2) A remedial action plan is not required pursuant to subdivision (b) if the site is listed on the National Priority List by the Environmental Protection Agency pursuant to the federal act, if the department or the regional board concurs with the remedy selected by the Environmental Protection Agency's record of decision. The department or the regional board may sign the record of decision issued by the Environmental Protection Agency if the department or the regional board concurs with the remedy selected.

(3) The department may waive the requirement that a remedial action plan meet the requirements specified in subdivision (d) if all of the following apply:

(A) The responsible party adequately characterizes the hazardous substance conditions at a site listed pursuant to Section 25356.

(B) The responsible party submits to the department, in a form acceptable to the department, all of the following:

(i) A description of the techniques and methods to be employed in excavating, storing, handling, transporting, treating, and disposing of materials from the site.

(ii) A listing of the alternative remedial measures which were considered by the responsible party in selecting the proposed removal action.

(iii) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action.

(iv) A description of prior removal actions with similar hazardous substances and with similar public safety and environmental considerations.

(C) The department determines that the remedial action plan provides protection of human health and safety and for the environment at least equivalent to that which would be provided by a remedial action plan prepared in accordance with subdivision (c).

(D) The total cost of the removal action is less than two million dollars ($2,000,000).

(4) For purposes of this section, the cost of a removal action includes the cleanup of removal of released hazardous substances from the environment or the taking of other actions that are necessary to prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release, as further defined by Section 9601 (23) of Title 42 of the United States Code.

(5) Paragraph (2) of this subdivision does not apply to a removal action paid from the state account.

(i) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional board pursuant to this section.

SEC. 28. Section 25356.4 of the Health and Safety Code is amended to read:

25356.4. (a) After making an apportionment of liability among the potentially responsible parties pursuant to Section 25356.3, the panel shall prepare a draft arbitration decision which contains a statement of reasons supporting the apportionment and shall circulate the draft arbitration decision for at least 30 days for public comment. After review and consideration of any public comment, the panel shall issue the final arbitration decision within 30 days after the comment period.

(b) Each potentially responsible party whose liability has been apportioned by the panel is liable to the department or the regional water quality control board for its apportioned share of the costs of all removal and remedial actions at the site which is the subject of the final remedial action plan issued pursuant to Section 25356.1. The department or the regional water quality control board and one or more potentially responsible parties may enter into a cleanup agreement which is consistent with the remedial action plan and which provides for the satisfaction of the liability of a potentially responsible party by the party's performance of specified removal or remedial actions at the site.

(c) The moneys in the state account may be expended, upon appropriation by the Legislature, to pay any share of those potentially responsible parties who did not submit to binding arbitration pursuant to Section 25356.3 or did not otherwise agree to pay the costs of the removal and remedial actions specified in the remedial action plan.

(d) The department or the regional water quality control board shall identify, and the Attorney General shall pursue recovery from, those potentially responsible parties who have not submitted to binding arbitration pursuant to Section 25356.3 or who have not discharged their obligations required by the final arbitration decision or the cleanup agreement.

(e) Advances from the state account, upon appropriation by the Legislature, shall be made available, where appropriate, to those responsible parties who are required by a cleanup agreement to perform specified removal or remedial actions pursuant to the remedial action plan or, if the money advanced derives from the proceeds of bonds sold pursuant to Article 7.5 (commencing with Section 25385), for the purposes specified in Section 25385.6.

SEC. 29. Section 25359.3 of the Health and Safety Code is amended to read:

25359.3. (a) The department may issue a complaint to any person subject to a penalty pursuant to Sections 25359.2 and 25359.4. The complaint shall allege the acts or failures to act that constitute a basis for liability and the amount of the proposed penalty. The complaint shall be served by personal service or certified mail and shall inform the party so served of the right to a hearing. Any person served with a complaint pursuant to this subdivision may, within 45 days after service of the complaint, request a hearing by filing a notice of defense with the department. A notice of defense is deemed to be filed within a 45-day period if it is postmarked within the 45-day period. If no notice of defense is filed within 45 days after service of the complaint, the department shall issue an order setting liability in the amount proposed in the complaint, unless the department and the party have entered into a settlement agreement, in which case the department shall issue an order setting liability in the amount specified in the settlement agreement. Where the party has not filed a notice of defense or where the department and the party have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(b) Any hearing required under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all powers granted by those provisions. In making a determination, the administrative law judge shall consider the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health and safety or the environment, the violator's ability to pay the proposed penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and on the regulated community as a whole.

(c) All penalties collected under this section and Section 25359.2 shall be deposited in the state account and shall be available for expenditure by the department upon appropriation by the Legislature.

SEC. 30. Section 25359.4.5 of the Health and Safety Code is amended to read:

25359.4.5. (a) A responsible party who has entered into an agreement with the department and is in compliance with the terms of that agreement, or who is in compliance with an order issued by the department, may seek, in addition to contribution, treble damages from any contribution defendant who has failed or refused to comply with any order or agreement, was named in the order or agreement, and is subject to contribution. A contribution defendant from whom treble

damages are sought in a contribution action shall not be assessed treble damages by any court where the contribution defendant, for sufficient cause, as determined by the court, failed to comply with an agreement or with an order issued by the department, or where the contribution defendant is an owner of real property who did not generate, treat, transport, store, or dispose of the hazardous substance on, in, or at the facility located on that real property, as specified in Sections 101 (35) and 107 (b) of the federal act (42 U.S.C. Secs. 9601 (35) and 9607 (b)), or where the principles of fundamental fairness would be violated, as determined by the court. A party seeking treble damages pursuant to this section shall show that the party, the department, or another entity provided notice, by means of personal service or certified mail, of the order or agreement to the contribution defendant from whom the party seeks treble damages.

(b) One-half of any treble damages awarded pursuant to this section shall be paid to the department, for deposit in the state account. Nothing in this subdivision affects the rights of any party to seek contribution pursuant to any other statute or under common law.

(c) A contribution defendant from whom treble damages are sought pursuant to this section shall be deemed to have acted willfully with respect to the conduct that gave rise to this liability for purposes of Section 533 of the Insurance Code.

SEC. 31. Section 25360 of the Health and Safety Code is amended to read:

25360. (a) Any costs incurred by the department or regional board in carrying out this chapter shall be recoverable pursuant to state or federal law by the Attorney General, upon the request of the department or regional board, from the liable person or persons. The amount of any response action costs that may be recovered pursuant to this section shall include interest on any amount paid. The interest on amounts paid from the state account or the Site Remediation Account shall be calculated at the rate of return earned on investment in the Surplus Money Investment Fund pursuant to Section 16475 of the Government Code.

(b) A person who is liable for costs incurred at a site shall have the liability reduced by any reimbursements that were paid by that person for that site pursuant to Section 25343.

(c) The amount of cost determined pursuant to this section shall be recoverable at the discretion of the department, either in a separate action or by way of intervention as of right in an action for contribution or indemnity. Nothing in this section deprives a party of any defense that the party may have.

(d) Money recovered by the Attorney General pursuant to this section shall be deposited in the state account.

SEC. 32. Section 25360.2 of the Health and Safety Code is amended to read:

25360.2. (a) For purposes of this section, the following definitions apply:

(1) "Owner" means either (A) the owner of property who occupies a single-family residence or one-half of a duplex constructed on the property, or (B) the owner of common areas within a residential common interest development who owns those common areas for the benefit of the residential homeowners. This paragraph does not include the developer of the common interest development.

(2) "Property" means either (A) real property of five acres or less which is zoned for, and on which has been constructed, a single-family residence, or (B) common areas within a residential common interest development.

(b) (1) Notwithstanding any other provision of this chapter, an owner of property that is the site of a hazardous substance release is presumed to have no liability pursuant to this chapter for either of the following:

(A) A hazardous substance release that has occurred on the property.

(B) A release of a hazardous substance to groundwater underlying the property if the release occurred at a site other than the property.

(2) The presumption may be rebutted as provided in subdivision (d).

(c) An action for recovery of costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release may not be brought against an owner of property unless the department first certifies that, in the opinion of the department, one of the following applies:

(1) The hazardous substance release that occurred on the property occurred after the owner acquired the property.

(2) The hazardous substance release that occurred on the property occurred before the owner acquired the property and at the time of acquisition the owner knew or had reason to know of the hazardous substance release.

(3) The owner of property where there has been a release of a hazardous substance to groundwater underlying the property took, or is taking, one or more of the following actions:

(A) Caused or contributed to a release of a hazardous substance to the groundwater.

(B) Fails to provide the department, or its authorized representative, with access to the property.

(C) Interferes with response action activities.

(d) In an action brought against an owner of property to recover costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release, the presumption established

in subdivision (b) may be rebutted if it is established by a preponderance of the evidence that the facts upon which the department made the certification pursuant to paragraph (1), (2), or (3) of subdivision (c) are true.

(e) Notwithstanding any other provision of this chapter, this section governs liability pursuant to this chapter for an owner of property, as defined in subdivision (a).

SEC. 33. Section 25360.3 of the Health and Safety Code is amended to read:

25360.3. (a) For the purposes of this section, the following terms have the following meaning:

(1) "Easement" means a conservation easement, as defined in Section 815.1 of the Civil Code.

(2) "Environmental assessment" means an investigation of real property, conducted by an independent qualified environmental consultant, to discover the presence or likely presence of a release or a threat of a release of a hazardous substance at, on, to, or from the real property. An environmental assessment shall include, but is not limited to, an investigation of the historical use of the real property, any prior releases, records, consultant reports and regulatory agency correspondence, a visual survey of the real property, and, if warranted, sampling and analytical testing.

(3) "Owner" means either of the following:

(A) An independent special district, as defined in Section 56044 of the Government Code.

(B) An entity or organization that holds an easement.

(4) "Property" means either of the following:

(A) Real property acquired by a special district by means of a gift or donation for which an environmental assessment was completed prior to the transfer or conveyance of the real property to the special district.

(B) An easement for which an environmental assessment was completed prior to the transfer or conveyance of the easement to an entity or organization authorized to accept the easement pursuant to Section 815.3 of the Civil Code.

(b) (1) Notwithstanding any other provision of this chapter, if an environmental assessment of property discovers no evidence of the presence or likely presence of a release or a threat of a release of a hazardous substance, and a hazardous substance release is subsequently discovered on, to, or from that property, the owner of that property is entitled to a rebuttable presumption, affecting the burden of producing evidence, that the owner is not a liable person or responsible party for purposes of this chapter. An owner is entitled to this presumption whether

the action is brought by the state or by a private party seeking contribution or indemnification.

(2) In an action brought against an owner of property to recover costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release, the presumption may be rebutted if it is established by a preponderance of the evidence that the facts upon which the department made the certification pursuant to paragraph (1), (2), (3), or (4) of subdivision (c) are true.

(c) An action for recovery of costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release shall not be brought against an owner of property unless the department first certifies that, as found by the department, one of the following situations applies:

(1) The hazardous substance release occurred on or after the date that the owner acquired the property.

(2) The hazardous substance release occurred before the date that the owner acquired the property and, at the time of the acquisition, the owner knew, or had reason to know, of the hazardous substance release.

(3) The environmental assessment applicable to the property was not properly carried out, was fraudulently completed, or involves the negligent or intentional nondisclosure of information.

(4) The hazardous substance release was discovered on or after the date of acquisition and the owner failed to exercise due care with respect to the release, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances.

(d) Notwithstanding any other provision of this chapter, this section governs liability pursuant to this chapter for an owner of property, as defined in subdivision (a).

(e) This section is applicable only to property that is acquired by the owner on or after January 1, 1995.

SEC. 34. Section 25360.4 of the Health and Safety Code is amended to read:

25360.4. (a) An action under Section 25360 for the recovery of the costs of removal or remedial action incurred by the department from the state account, or any other source authorized by law, or for the recovery of administrative costs incurred by the department in connection with any removal or remedial action performed by the department or by any responsible party, shall be commenced within three years after completion of the removal or remedial action has been certified by the department.

(b) An action under subdivision (c) of Section 25352 for costs incurred by the department for the purposes specified in subdivision (a) or (b) of Section 25352 shall be commenced within three years after certification

by the department of the completion of the activities authorized under subdivisions (a) and (b) of Section 25352.

(c) In any action described in subdivision (a) or (b) for recovery of the costs of a removal action, a remedial action, administrative costs, or damages, where the court has entered a judgment for these past costs or damages, the court shall also enter an order reserving jurisdiction over the case and the court shall have continuing jurisdiction to determine any future liability and the amount. The department may immediately enforce the judgment for past costs and damages. The department may apply for a court judgment as to future costs and damages that have been incurred at any time during the removal and remedial actions or during the performance of the activities authorized by Section 25352, but the application shall be made not later than three years after the certification of completion of the actions or activities.

(d) An action may be commenced under Section 25360 or subdivision (c) of Section 25352 at any time prior to expiration of the three-year limitation period provided for by this section.

SEC. 35. Section 25361 of the Health and Safety Code is amended to read:

25361. (a) The state account shall be a party in any action for recovery of costs or expenditures under this chapter incurred from the state account.

(b) In the event a district attorney or a city attorney has brought an action for civil or criminal penalties pursuant to Chapter 6.5 (commencing with Section 25100) against any person for the violation of any provision of that chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, adopted, or executed thereunder, and the department has expended moneys from the state account pursuant to Section 25354 for immediate corrective action in response to a release, or threatened release, of a hazardous substance which has resulted, in whole or in part, from the person's acts or omissions, the state account may be made a party to that action for the purpose of recovering the costs against that person. If the state account is made a party to the action, the Attorney General shall represent the state account for the purpose of recovering the moneys expended from the account. Notwithstanding any other provision of law, and under terms that the Attorney General and the department deem appropriate, the Attorney General may delegate the authority to recover the costs to the district attorney or city attorney who has brought the action pursuant to Chapter 6.5 (commencing with Section 25100). The failure to seek the recovery of moneys expended from the state account as part of the action brought pursuant to Chapter 6.5 (commencing with Section 25100) does not foreclose the Attorney General from recovering the moneys in a separate action.

SEC. 36. Section 25365.6 of the Health and Safety Code is amended to read:

25365.6. (a) Any costs or damages incurred by the department or regional board pursuant to this chapter constitutes a claim and lien upon the real property owned by the responsible party that is subject to, or affected by, the removal and remedial action. This lien shall attach regardless of whether the responsible party is insolvent. A lien established by this section shall be subject to the notice and hearing procedures required by due process of the law and shall arise at the time costs are first incurred by the department or regional board with respect to a response action at the site.

(b) The department shall not be considered a responsible party for a hazardous substance release site because a claim and lien is imposed pursuant to this section.

(c) The lien provided by this section shall continue until the liability for these costs or damages, or a judgment against the responsible party, is satisfied. However, if it is determined by the court that the judgment against the responsible party will not be satisfied, the department may exercise its rights under the lien.

(d) The lien imposed by this section shall have the force and effect of, and the priority of, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll. The lien shall also contain a legal description of the property which is the site of the hazardous substance release, the assessor's parcel number for that property, and the name of the owner of record, as shown on the latest equalized assessment roll, of that property.

(e) All funds recovered pursuant to this section shall be deposited in the state account.

SEC. 37. Section 25368.2 of the Health and Safety Code is amended to read:

25368.2. The department shall select technology demonstration projects to be evaluated pursuant to this article using criteria that include, at a minimum, all of the following requirements:

(a) The project proposal includes complete and adequate documentation of technical feasibility.

(b) The project proposal includes evidence that a technology has been sufficiently developed for full-scale demonstration and can likely operate on a cost-effective basis.

(c) The department has determined that a site is available and suitable for demonstrating the technology or technologies, taking into account

the physical, biological, chemical, and geological characteristics of the site, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in a manner to ensure the protection of human health and the environment.

(d) The technology to be demonstrated preferably has widespread applicability in removal and remedial actions at other sites in the state.

(e) The project will be developed to the extent that a successful demonstration on a hazardous substance release site may lead to commercial utilization by responsible parties at other sites in the state.

(f) The department has determined that adequate funding is available from one or more of the following sources:

(1) Responsible parties.

(2) The Environmental Protection Agency.

(3) The state account.

SEC. 38. Section 25385.1 of the Health and Safety Code is amended to read:

25385.1. For purposes of this article, and for purposes of Section 16722 of the Government Code as applied to this article, the following definitions apply:

(a) "Board" means the Department of Toxic Substances Control.

(b) "Committee" means the Hazardous Substance Cleanup Committee created pursuant to Section 25385.4.

(c) "Director" means the Director of Toxic Substances Control.

(d) "Fund" means the state account.

(e) "Orphan site" means a site with a release or threatened release of a hazardous substance with no reasonably identifiable responsible parties.

(f) "Orphan share" means those costs of removal or remedial action at sites with a release or threatened release of hazardous substances, which costs are in excess of amounts included in a cleanup agreement.

(g) "Responsible party" means a person who is, or may be, responsible or liable for carrying out, or paying for the costs of, a removal or remedial action.

SEC. 39. Section 25385.3 of the Health and Safety Code is amended to read:

25385.3. (a) The Hazardous Substance Cleanup Fund is hereby created in the State Treasury. The proceeds of bonds issued and sold pursuant to this article shall be deposited in the fund, and the money in the fund may be expended only for the purposes specified in this article and, pursuant to appropriation by the Legislature, in the manner specified in this section.

(b) Except when the Legislature appropriates money from the fund for specified removal or remedial actions in a bill other than the Budget Act, it is the intention of the Legislature that all proposed appropriations

for activities conducted pursuant to this article be included in a section of the Budget Act for each fiscal year for consideration by the Legislature and that this section be captioned "Hazardous Substance Cleanup Bond Act Program." Any appropriation of money from the fund is subject to all the limitations contained in the bill making the appropriation and to all fiscal procedures specified by statute concerning the expenditure of state funds.

(c) In issuing bonds pursuant to this article, the committee shall, to the extent possible, pay the principal of, and interest on, the bonds from the sources specified in subdivisions (a) to (f), inclusive, of Section 25385.9. The General Fund shall be reimbursed from these sources for any transfers made to the Hazardous Substance Clearing Account from the General Fund to make the principal and interest payments. In determining the amount the General Fund is to be reimbursed for any transfer, the committee shall also include interest on the transfer at a rate equal to the bond rate on the transfer from the date of transfer to the date of reimbursement.

(d) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 40. Section 25385.6 of the Health and Safety Code is amended to read:

25385.6. (a) The moneys in the state account that are the proceeds of bonds issued and sold pursuant to this article may be used, upon appropriation by the Legislature, for the purposes specified in this section.

(b) The board may expend moneys in the fund, that are the proceeds of bonds issued and sold pursuant to this article upon the authorization of the committee, for all of the following purposes:

(1) To provide the state share of a removal or remedial action pursuant to Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)) if the site is the subject of a final remedial action plan issued pursuant to Section 25356.1.

(2) To pay all costs of a removal or remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance at a site which is listed in the priority ranking of sites pursuant to Section 25356 and is the subject of a final remedial action plan issued pursuant to Section 25356.1, to the extent that the costs are not paid by responsible parties or are reimbursed by the federal act.

(3) To pay for site characterization of a release of hazardous substances, even if a remedial action plan has not been prepared, approved, adopted, or made final for that site.

SEC. 41. Section 25385.8 of the Health and Safety Code is amended to read:

25385.8. (a) The Superfund Bond Trust Fund is hereby created in the State Treasury. All interest earned on funds in the state account, and other funds transferred to the trust fund by the Legislature or the department, shall be deposited in the trust fund, which is a sinking fund to ensure the payment of principal of, and interest on, the debt incurred pursuant to Section 25385.5. All interest earned on money in the fund shall be deposited in the trust fund. The funds in the trust fund shall be invested by the Treasurer. The committee shall administer the trust fund so that there are sufficient funds in the trust fund to make the necessary principal and interest payments on bonds issued and shall transfer funds from the trust fund for this purpose to the Hazardous Substance Clearing Account.

(b) There shall be transferred annually the sum of five million dollars ($5,000,000) from the state account to the trust fund.

(c) The unobligated balance in the state account shall be transferred by the department to the trust fund on December 31 of each year. For purposes of this section, "unobligated balance" means that amount, which shall not be less than zero, determined by the department, in the yearend financial statement submitted to the Controller, to be the total of all unencumbered funds on June 30 of that calendar year, less the total of all of the following:

(1) Any fund in the reserve account for emergencies established by Section 25354.

(2) Any remaining principal of the loan authorized by Section 25332.

(3) Any interest due on any remaining principal of the loan authorized by Section 25332.

(4) Any funds paid as taxes for the following fiscal year.

(5) Any funds received from the federal government pursuant to the federal act.

(6) Any interest accruing from funds deposited in the subaccount for site operation and maintenance established by Section 25330.5.

(7) Any funds received from responsible parties for remedial and removal action, except to the extent those funds are necessary to reimburse the state account for funds previously expended therefrom.

(8) Any funds deposited into a sinking fund to ensure the repayment of principal on, and interest of, bonds pursuant to Section 25385.9.

(d) The amendment of this section by Chapter 531 of the Statutes of 1990 does not constitute a change in, but is declaratory of, the existing law.

(e) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, that becomes

operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 25385.9 of the Health and Safety Code is repealed.

SEC. 43. Section 39607.4 is added to the Health and Safety Code, to read:

39607.4. On and after January 1, 2007, as part of its responsibilities under Section 39607, and in order to streamline, consolidate, and unify the inventory of air emissions under one agency in state government, the state board shall prepare, adopt, and update the inventory formerly required to be adopted and updated by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.5 (commencing with Section 25730) of Division 15 of the Public Resources Code.

SEC. 44. Section 42871 is added to the Health and Safety Code, to read:

42871. (a) This chapter shall remain in effect 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.

(b) It is the intent of the Legislature that emissions registered and verified in accordance with this chapter prior to January 1, 2008, receive appropriate consideration under any future international, federal, or state regulatory scheme relating to greenhouse gas emissions.

(c) It is further the intent of the Legislature that if a mandatory reporting statute is enacted on or before January 1, 2007, the functions of the Climate Action Registry be transitioned in full consultation with the registry consistent with the policies established in Executive Order S-3-05 and with any laws enacted by the Legislature subsequent to the enactment of this section.

(d) This section does not affect the status of the Climate Action Registry as a nonprofit public benefit corporation incorporated pursuant to Division 2 (commencing with Section 5000) of the Corporations Code.

SEC. 45. Section 4137 is added to the Public Resources Code, to read:

4137. (a) It is the intent of the Legislature that the year-round staffing and the extension of the workweek that has been provided to the department pursuant to memorandums of understanding with the state will result in significant increases in the department's current level of fire prevention activities. It is the intent of the Legislature that the budgetary augmentations for year-round staffing not reduce the revenue that the department receives from contracts with local governments for the department to provide local fire protection and emergency services, commonly referred to as "schedule A agreements."

(b) On or before January 10 of each year, commencing in 2007, the department shall provide a report to the Legislature, including the budget and fiscal committees of the Assembly and the Senate, regarding the department's increased fire prevention activities described in subdivision (a). The report shall display the information from previous reports for purposes of comparison. The report shall include all of the following:

(1) The percentage of the fire prevention activities that occurred on lands designated as state responsibility areas.

(2) The percentage of the fire prevention activities that occurred in counties where, pursuant to a contract with the department, the county has agreed to provide fire protection services in state responsibility areas within county boundaries on behalf of the department.

(3) The percentage of the fire prevention activities that were undertaken pursuant to a contract with a local government for the department to provide local fire protection and emergency services.

(4) Identification, with specific reference to the department's authority, of the percentage of the fire prevention activities that occurred on other lands.

(5) A listing of fire prevention performance measures that the department tracks annually, including, but not limited to, all of the following:

(A) The number of structural fire safety and vegetation clearance inspections, citations, and other enforcement activities.

(B) The number of acres treated by mechanical fuel reduction.

(C) Prescribed burns.

(D) The fire prevention performance measures described in subparagraphs (A) to (C), inclusive, shall measure and report all specific fire prevention activities undertaken by the department in each region on an annual basis and shall also measure and report the specific level of fire prevention activity that occurs in each region from December 15 through April 15, inclusive.

(6) Projected outcomes for each of the fire prevention performance measures described in paragraph (5) for each year by region that may occur after the annual report is submitted to the Legislature.

(7) Information on each of the contracts described in paragraph (3), including revenues for each fiscal year and an annual update on the number of those contracts and revenues received from the contracts that are in effect.

SEC. 46. Section 4799.13 of the Public Resources Code is amended to read:

4799.13. (a) There is hereby created in the State Treasury, the Forest Resources Improvement Fund. The money in the Forest Resources Improvement Fund may only be expended, upon appropriation by the

Legislature, for the cost of operations associated with management of lands held in trust by the state and operated as demonstration state forests by the department pursuant to Section 4646, including restoration activities.

(b) The Forest Resources Improvement Fund shall be the depository for all revenue derived from the repayment of loans made or interest received pursuant to Chapter 1 (commencing with Section 4790), and the receipts from the sale of forest products, as defined in Section 4638, from the state forests to support the operations described in subdivision (a). Money in the fund in excess of the amount needed to support those operations shall be deposited in the General Fund.

(c) The director may accept grants and donations of equipment, seedlings, labor, materials, or funds from any source for the purpose of supporting or facilitating activities undertaken pursuant to this part. Any funds received shall be deposited by the director in the Forest Resources Improvement Fund.

(d) Each proposed expenditure by the department of money from the Forest Resources Improvement Fund shall be included as a separate item and scheduled individually in the Budget Bill for each fiscal year for consideration by the Legislature. These appropriations shall be subject to all of the limitations contained in the Budget Bill and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

SEC. 47. Section 5003.11 is added to the Public Resources Code, to read:

5003.11. (a) Notwithstanding the provisions of Division 3 (commencing with Section 11000) of Title 2 of the Government Code that relate to the disposition of state-owned real property, the director may grant to the City of Malibu, subject to the conditions set forth in this section, all of the rights, title, and interest of the state in an approximately 10.81-acre portion of the Malibu Bluffs unit of Malibu Lagoon State Beach, known as Malibu Bluffs Community Park, in the County of Los Angeles.

(b) The grant is subject to all of the following conditions:

(1) The real property conveyed shall be operated, maintained, and improved by the City of Malibu for park purposes in perpetuity, consistent with any covenants, conditions, and restrictions in the deed transferring the property.

(2) The City of Malibu shall pay the department fair market value for the real property conveyed and as restricted by paragraph (1). The fair market value shall be determined by an appraisal that is reviewed and approved by the Department of General Services.

(3) The net proceeds from the transfer shall be deposited pursuant to Section 5003.15, with Attorney General review and approval.

(c) The Legislature finds and declares that the transfer to the City of Malibu of the real property described in subdivision (a) and subject to the conditions specified in subdivision (b) is excepted from the provisions of Section 5096.516 in accordance with paragraph (3) of subdivision (c) of Section 5096.516.

SEC. 48. Section 5090.15 of the Public Resources Code is amended to read:

5090.15. (a) There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of seven members, three of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(b) In order to be appointed to the commission, a nominee shall represent one or more of the following groups:

(1) Off-highway vehicle recreation interests.

(2) Biological or soil scientists.

(3) Groups or associations of predominantly rural landowners.

(4) Law enforcement.

(5) Environmental protection organizations.

(6) Nonmotorized recreationist interests.

It is the intent of the Legislature that appointees to the commission represent all of the groups delineated in paragraphs (1) to (6), inclusive, to the extent possible.

(c) Whenever a reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the state vehicular recreation areas, as established by this chapter, it is a reference to, and means, the Off-Highway Motor Vehicle Recreation Commission.

(d) 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. 49. Section 5090.70 of the Public Resources Code is amended to read:

5090.70. This chapter 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. 50. Section 5818.1 is added to the Public Resources Code, to read:

5818.1. The Coastal Wetlands Fund is hereby established in the State Treasury and shall be an interest-bearing fund administered by the

Department of Fish and Game. The principal of the Coastal Wetlands Fund shall not be expended, and shall be maintained so that the interest earned by the fund will provide a continuous source of funding for wetlands maintenance. The interest in the Coastal Wetlands Fund is available only upon appropriation in the annual Budget Act, and the interest appropriated shall be allocated as follows:

(a) Sixty percent to the Department of Fish and Game for expenditure pursuant to Section 5818.2 for maintenance of coastal wetlands owned by the Department of Fish and Game.

(b) Forty percent to the State Coastal Conservancy for expenditure pursuant to Section 5818.2 for maintenance of coastal wetlands.

SEC. 51. Section 5818.2 is added to the Public Resources Code, to read:

5818.2. (a) (1) Interest appropriated from the Coastal Wetlands Fund pursuant to subdivision (b) of Section 5818.1 shall be expended by the State Coastal Conservancy in the form of grants for maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(2) An applicant may apply to the State Coastal Conservancy for a grant pursuant to the grant application procedures in Division 21 (commencing with Section 31000), to perform maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(b) Interest appropriated from the Coastal Wetlands Fund pursuant to subdivision (a) of Section 5818.1 shall be expended by the Department of Fish and Game for maintenance of coastal wetlands owned by the Department of Fish and Game.

(c) The Department of Fish and Game and the State Coastal Conservancy may accept contributions to the Coastal Wetlands Fund. The sources of contributions that may be accepted include, but are not limited to, private individuals and organizations, nonprofit organizations, and federal, state, and local agencies including special districts. The contributions accepted may include money identified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) as acceptable mitigation for development projects. The Department of Fish and Game and the State Coastal Conservancy shall deposit a contribution accepted pursuant to this subdivision in the Coastal Wetlands Fund, subject to the requirements of Section 5818.1.

SEC. 52. Section 8709.5 is added to the Public Resources Code, to read:

8709.5. Expenses attributable to management and remediation efforts on state school lands are payable from the fund.

SEC. 53. Section 25731 is added to the Public Resources Code, to read:

25731. (a) This chapter shall remain in effect 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.

(b) It is the intent of the Legislature to transfer the functions performed by the commission pursuant to this chapter to the State Air Resources Board in order to consolidate, streamline, and unify the inventory of air emissions under a single agency in state government.

SEC. 54. Section 30533 of the Public Resources Code is amended to read:

30533. (a) On or before January 1 of each year, the commission and the State Coastal Conservancy shall report to the Governor and the Legislature the progress made in implementing the public coastal access program established by this article. The report shall include progress in facilitating the acceptance of outstanding offers to dedicate and shall identify new offers to dedicate recorded in the previous fiscal year. For each offer to dedicate accepted or recorded in the previous calendar year, the report shall include all of the following information:

(1) Type of offer to dedicate.

(2) Location of property.

(3) Expiration date of offer.

(4) Name of entity that accepted the offer to dedicate.

(b) It is the intent of the Legislature that the commission, the State Coastal Conservancy, and all other appropriate public agencies proceed with all deliberate speed to implement the provisions of this article prior to the deadlines established in this article.

SEC. 55. Section 42885 of the Public Resources Code, as amended by Section 13 of Chapter 707 of the Statutes of 2004, is amended to read:

42885. (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) A person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents ($1.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 1½ percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly

schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) A person or business who knowingly, or with reckless disregard, makes a false statement or representation in a document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars ($25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the board may impose an administrative penalty in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on a person who intentionally or negligently violates a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

(h) The California tire fee shall not be imposed on a tire sold with, or sold separately for use on, any of the following:

(1) A self-propelled wheelchair.

(2) A motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) A vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 56. Section 42889 of the Public Resources Code, as amended by Section 14 of Chapter 707 of the Statutes of 2004, is amended to read:

42889. (a) Commencing January 1, 2005, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents ($0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the board in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the board. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (c) of Section 42885.

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(5) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars ($6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(6) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(7) To assist in developing markets and new technologies for used tires and waste tires. The board's expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(8) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(9) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars ($1,000,000).

(10) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 57. Section 38225 of the Vehicle Code, as amended by Section 40 of Chapter 563 of the Statutes of 2002, is amended to read:

38225. (a) A service fee of seven dollars ($7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of eight dollars ($8) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles.

All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in Section 5090.50 of the Public Resources Code.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) 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. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 2008, shall be transferred to the General Fund.

SEC. 58. Section 38225 of the Vehicle Code, as amended by Section 3 of Chapter 227 of the Statutes of 2001, is amended to read:

38225. (a) A service fee of seven dollars ($7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) This section shall become operative on January 1, 2008.

SEC. 59. Section 141.5 is added to the Water Code, to read:

141.5. The department shall proceed with the construction of the South Delta Improvements Program, but shall not commence the operational phase of the program until the director certifies, in writing, to the Legislature that the department has completed the operational studies of the project and that the environmental review required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) includes a comparison between the implementation of the program and the maintenance of current operations.

SEC. 60. Section 79441 of the Water Code is amended to read:

79441. (a) The department, the Department of Fish and Game, and the United States Army Corps of Engineers are the implementing agencies for the levee program element.

(b) The state board, the United States Environmental Protection Agency, and the State Department of Health Services are the implementing agencies for the water quality program element.

(c) The Department of Fish and Game, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the ecosystem restoration program

element. If interests in land, water, or other real property are acquired, those interests shall be acquired from willing sellers by means of entering into voluntary agreements.

(d) The department and the United States Bureau of Reclamation are the implementing agencies for the water supply reliability, storage, and conveyance elements of the program.

(e) The department, the state board, and the United States Bureau of Reclamation are the implementing agencies for the water use efficiency and water transfer program elements.

(f) The Resources Agency, the state board, the department, the Department of Fish and Game, the United States Natural Resources Conservation Service, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service are the implementing agencies for the watershed program element.

(g) The Resources Agency is the implementing agency for the science program element.

(h) The department, the Department of Fish and Game, the United States Bureau of Reclamation, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the environmental water account program element.

SEC. 61. Section 79442 is added to the Water Code, to read:

79442. (a) It is the intent of the Legislature, in enacting this section, that all public processes that are currently part of the Bay-Delta Program as of the date of enactment of the act adding this section will continue, consistent with the act that added this section, unless legislation is enacted to change these processes.

(b) The Secretary of the Resources Agency shall provide staff support to the authority to assist the authority in exercising its duties under this division.

(c) The Department of Forestry and Fire Protection shall provide administrative support to assist the Secretary of the Resources Agency in carrying out the duties assigned to the secretary by this section. That administrative support includes, but is not limited to, all of the following:

(1) Contracting and purchasing.

(2) Budgeting and accounting.

(3) Information technology.

(4) Business services.

(5) Human resources.

(d) (1) Except as provided in paragraph (2), the Secretary of the Resources Agency shall administer all contracts, grants, leases, and agreements under this division.

(2) The Department of Fish and Game shall administer all contracts, grants, leases, or agreements that relate to the implementation of the ecosystem restoration program under this division.

(3) The exercise of the authority described in paragraphs (1) and (2) shall not be subject to review or approval by the Department of General Services.

(4) No contract, lease, license, or any other agreement to which the authority is a party shall become void or voidable as a result of the implementation of this subdivision, but shall continue in full force and effect.

(e) The Secretary of the Resources Agency shall assume from the authority all of the administrative rights, abilities, obligations, and duties of the authority, except those rights, abilities, obligations, and duties assigned to the Department of Fish and Game by this section.

(f) The Secretary of the Resources Agency shall have possession and control of all records, papers, equipment, supplies, and contracts, leases, agreements, and other property, real or personal, connected with the administration of this division, or held for the benefit or use of the authority.

(g) All positions transferred from the authority in the Budget Act of 2006 shall be used to support the Bay-Delta Program or the Secretary of the Resources Agency. The status, position, and rights of any officer or employee shall not be affected by this transfer and all officers and employees shall be retained pursuant to the applicable provisions of the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to any position that is exempt from civil service.

SEC. 62. Section 79452 of the Water Code is amended to read:

79452. (a) The Secretary of the Resources Agency, with the advice of the authority and the director, shall appoint a lead scientist. The lead scientist shall report to the authority. The lead scientist, in cooperation with the implementing agencies, shall be responsible for the development of the science program element.

(b) The lead scientist shall meet the following requirements:

(1) Has undertaken substantial scientific research work in any field related to one or more of the program elements.

(2) Has experience managing environmental issues or advising high-level managers in methods for promoting science-based decisionmaking in the areas of water management and ecosystem restoration.

(3) Has a record of publication in peer-reviewed scientific literature.

(c) For all program elements, the lead scientist shall ensure scientific application of adaptive management, monitoring, and investigations to

reduce uncertainties, and full investigation of the effects of each program element on other program elements.

(d) The lead scientist shall ensure that peer review is employed extensively and prudently to ensure the quality of program planning, implementation, and evaluation.

(e) The purpose of the science program element shall be to carry out all of the following functions:

(1) Provide implementing agencies and the authority with authoritative and unbiased reviews of the state of scientific knowledge relevant to management and decisionmaking for the California Bay-Delta Program.

(2) Implement programs and projects to articulate, test, refine, and improve the scientific understanding of all aspects of the bay-delta and its watershed areas.

(3) Provide a comprehensive framework to integrate, monitor, and evaluate the use of adaptive management and the best available scientific understandings and practices for implementing the California Bay-Delta Program.

(4) Independently review the technical and scientific performance of the California Bay-Delta Program, including, but not limited to, all of the following:

(A) Conclusions.

(B) Studies, monitoring, performance measures.

(C) Data analyses.

(D) Scientific practices that form the scientific bases for program decisionmaking.

SEC. 63. Section 79452.3 of the Water Code is amended to read:

79452.3. (a) Notwithstanding any other provision of law, the Secretary of the Resources Agency, may, in collaboration with the Director of Fish and Game, directly or indirectly enter into contracts with scientific experts for the purpose of conducting studies of delta fisheries and for carrying out the mission of the California Bay-Delta Program. A contract entered into pursuant to this section shall terminate no later than January 1, 2009, and shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Section 19130 of the Government Code, and any rules or regulations adopted pursuant to any of those provisions.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2009, deletes or extends that date.

SEC. 64. Chapter 2.5 (commencing with Section 79473) is added to Division 26.4 of the Water Code, to read:

CHAPTER 2.5. SACRAMENTO-SAN JOAQUIN DELTA STRATEGIC PLAN

79473. The Secretary of Resources, in collaboration with the Secretary of Business, Transportation and Housing, shall develop a strategic plan to achieve a sustainable Sacramento-San Joaquin Delta. The plan shall include all of the following:

(a) A description, characterization, or definition of a sustainably managed delta, including the delta's multiple resources and uses for each of the following:

(1) Ecosystem functions, including aquatic and terrestrial flora and fauna.

(2) Land use and land use patterns.

(3) Transportation uses, including streets, roads and highways, and waterborne transportation.

(4) Utility uses, including aqueducts, pipelines, and power transmission corridors.

(5) Water supply uses.

(6) Recreation uses, including current and future recreational and tourism uses.

(7) Other aspects of sustainability determined to be desirable by the Secretary of the Resources Agency or the Secretary of Business, Transportation and Housing.

(b) Measurable goals and objectives for achieving a sustainably managed delta.

(c) A list of necessary actions to achieve a sustainably managed delta.

(d) Recommendations for institutional changes, including creating new institutions, necessary for achieving a sustainably managed delta. The recommendations may include a discussion of any of the following:

(1) Oversight authorities.

(2) Implementation authorities.

(3) Land use authorities.

(e) A strategic financing plan, including provisions for delta beneficiaries to pay their share for the benefits that they receive.

(f) Contingency plans addressing all of the following:

(1) Response plans for local impacts, such as a levee failure on a single island.

(2) Response plans for widespread catastrophic losses, such as losses that may occur as a result of a significant seismic event.

(3) Adaptive management.

(4) The likely impacts of global warming, climate change, and sea-level rise.

SEC. 65. The Legislature finds and declares all of the following:

(a) The Lake Tahoe Basin is an area of not just statewide significance, but of national and international significance.

(b) A congressionally approved compact between California and Nevada established the Tahoe Regional Planning Agency. The agency coordinates planning and regulations that preserve and enhance the environment and resources of the Lake Tahoe Basin.

(c) Funding for the agency is shared between Nevada (one-third) and California (two-thirds). Funding is effective subject to approval by both states.

(d) In the event that California state employees, in general, receive a salary increase through a collective bargaining agreement or other employee compensation procedure, as a cost-of-living adjustment, the agency's budget should be augmented accordingly to fund California's two-thirds share of the amount, according to the compact, necessary to maintain comparable salaries with California and Nevada state employees, for the agency's employees.

(e) California's contribution for this funding would be subject to Nevada providing its one-third share match.

(f) For purposes of providing matching salary comparability or cost-of-living adjustment funding only, the agency's employees would be treated the same as other California state employees in the annual state budget process.

(g) One way of possibly differentiating the agency in this proposal from other local assistance agencies would be to adopt this budget process for interstate compact agencies only. The rationale for doing this would be to avoid the currently cumbersome and complicated budget process resulting from having two separate state budget processes for the agency.

(h) Funding for any salary increase or cost-of-living adjustment should be allocated in the same manner and under the same methodology used by the Department of Finance for state agencies and from the same sources of funding set aside in the annual budget for any salary increase or cost-of-living adjustment.

SEC. 66. The Legislature finds and declares that the changes made by this act to Section 25192 of the Health and Safety Code further the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986.

SEC. 67. 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. 68. 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 2006 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 78

An act to amend Sections 17561 and 29550 of, and to add Sections 29551 and 29552 to, the Government Code, to amend Section 33681.12 of the Health and Safety Code, to amend Section 11001.5 of the Revenue and Taxation Code, and to add and repeal Section 38240.5 of the Vehicle Code, relating to local government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 2006. Filed with Secretary of State July 18, 2006.]

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

SECTION 1. Section 17561 of the Government Code is amended to read:

17561. (a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and

school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 that includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall pay any eligible claim pursuant to this section within 60 days after the filing deadline for claims for reimbursement or 15 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies that would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies and school districts pursuant to Section 17558. Issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17551 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district

to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill.

(e) (1) Except as specified in paragraph (2), for the purposes of determining the state's payment obligation under paragraph (1) of subdivision (b) of Section 6 of Article XIII B of the Constitution, a mandate that is "determined in a preceding fiscal year to be payable by the state" means all mandates for which the commission adopted a statewide cost estimate pursuant to this part during a previous fiscal year or that were identified as mandates by a predecessor agency to the commission, unless the mandate has been repealed or otherwise eliminated.

(2) If the commission adopts a statewide cost estimate for a mandate during the months of April, May, or June, the state's payment obligation under subdivision (b) of Section 6 of Article XIII B shall commence one year after the time specified in paragraph (1).

SEC. 2. Section 29550 of the Government Code is amended to read:

29550. (a) (1) Subject to subdivision (d) of Section 29551, 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, where 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. For the 2005–06 fiscal year and each fiscal year thereafter, the fee imposed by a county pursuant to this subdivision shall not exceed one-half of 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 in accordance with subdivision (a) 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 where the cities and the county participate in a consolidated booking program and where 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 which 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. For the 2005–06 fiscal year and each fiscal year thereafter, the county may charge up to one-half of 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" include 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. 3. Section 29551 is added to the Government Code, to read:

29551. (a) The board of supervisors or city council of any county, city and county, or city that opts to receive funds pursuant to Section 29552 shall establish a local detention facility revenue account, on behalf of the sheriff or the official responsible for local detention facilities in the county, city and county, or city, into which shall be deposited funds paid by the Controller, pursuant to Section 29552. The funds in the local detention facility revenue account shall be used exclusively for the purpose of operation, renovation, remodeling, or constructing local detention facilities and related equipment.

(b) (1) If an appropriation for the purposes specified in Section 29552 is made in any fiscal year, a county, city and county, or city, may charge a jail access fee to a local agency that exceeds the agency's three-year average number of nonfelony bookings for crimes listed in paragraph (2) at a rate not to exceed the actual cost of booking an arrested person into the local detention facility, for each booking in excess of the three-year average. A local agency's three-year average number of nonfelony bookings for crimes listed in paragraph (2) shall be recalculated each year. The jail access fee shall be calculated and paid on a monthly basis, and all revenue derived from the jail access fee shall be deposited into the local detention facility revenue account created pursuant to subdivision (a).

(2) Bookings for violations of each of the following shall be used to determine a local agency's three-year average:

(A) Municipal code violations.

(B) Misdemeanor violations, except driving under the influence offenses and domestic violence misdemeanor offenses, including enforcement of protective orders.

(c) Cities that operate Type One facilities within a county shall be eligible to receive funds from the county's local detention facility revenue account. Cities that operate Type One facilities and charged booking fees pursuant to Section 29550.3 during the 2006–07 fiscal year shall receive funds in an amount proportional to the number of persons booked into the city's Type One facility for which the city charged fees to the arresting agency.

(d) Except as provided in subdivisions (c) to (f), inclusive, of Section 29550 and subdivisions (a) to (c), inclusive, of Section 29950.3, every year in which at least thirty-five million dollars ($35,000,000) is appropriated for the purposes of Section 29552, counties, cities and counties, and cities are prohibited from collecting fees pursuant to Sections 29550 and 29550.3 from other public entities. In any fiscal year in which the appropriation for the purposes of Section 29552 is less than thirty-five million dollars ($35,000,000), a county, city and county, or a city may collect fees pursuant to Section 29550 and Section 29550.3 up to a rate, adjusted as provided in subdivision (e), in proportion to the amount that the amount appropriated is less than thirty-five million dollars ($35,000,000).

(e) The maximum rate of the fee charged by each local agency pursuant to subdivision (d) shall be the rate charged as of June 30, 2006, pursuant to Section 29550 or 29550.3, increased for each subsequent fiscal year by the California Consumer Price Index as reported by the Department of Finance plus 1 percent, compounded annually.

(f) This section shall become operative on July 1, 2007.

SEC. 4. Section 29552 is added to the Government Code, to read:

29552. (a) (1) Commencing with the 2007–08 fiscal year, all counties and cities and counties that charged fees pursuant to Section 29550 and cities with Type One detention facilities that charged fees pursuant to Section 29550.3 during the 2006–07 fiscal year may apply to the Controller to receive funding provided pursuant to subdivision (b) that is equal to the fee revenue received by the county, city and county, or city during the 2006–07 fiscal year, to the extent that funding is appropriated therefore in the annual budget act or other appropriation legislation. If insufficient funds are appropriated to equal the full amount of fees received in the 2006–07 fiscal year, each county, city and county and city that applies for funding shall receive a share of the appropriated funds proportionate to the share of fees it received in the 2006–07 fiscal year compared to the statewide total reported to the Controller.

(2) The remaining portion of any amount appropriated for purposes of this section shall be paid proportionally to all counties, cities and counties, and cities based on the number of bookings within each county during the year previous to the current payment.

(b) Not later than December 1 of each year, the Controller shall allocate the funds appropriated for the purposes of this section to all eligible counties, cities and counties, and cities. Any city, county, or city and county that applies for funding pursuant to this section shall comply with all requests for information made by the Controller.

(c) This section shall become operative on July 1, 2007.

SEC. 5. Section 33681.12 of the Health and Safety Code is amended to read:

33681.12. (a) (1) During the 2004–05 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) to the county auditor for deposit in the county's Educational Revenue Augmentation Fund created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. During the 2005–06 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) to the county auditor for deposit in the county's Educational Revenue Augmentation Fund created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(2) For the 2004–05 and 2005–06 fiscal years, on or before November 15, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing one hundred twenty-five million dollars ($125,000,000) by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(G) Determine a percentage factor by dividing one hundred twenty-five million dollars ($125,000,000) by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency and each legislative body of the amount determined pursuant to subparagraph (I).

(K) Notify each county auditor of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670.

(b) (1) Notwithstanding Sections 33334.2, 33334.3, and 33334.6, and any other provision of law, in order to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 during the 2004–05 fiscal year and, if applicable, the 2005–06 fiscal year, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys are remitted to the county auditor for deposit in the county's Educational Revenue Augmentation Fund pursuant to subdivision (a).

(c) In order to make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income. No moneys held in a low- and

moderate-income fund as of July 1 of the applicable fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33681.14.

(e) The allocation obligations imposed by this section, including amounts owed, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determinations required by subdivision (a), the Director of Finance shall use those amounts reported as the "Tax Increment Retained by Agency" for all agencies and for each agency in the most recent published edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code.

(h) If revised reports have been accepted by the Controller on or before September 1, 2005, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(i) (1) Notwithstanding any other provision of law, a county redevelopment agency may enter into a loan agreement with the legislative body to have the agency remit to the county's Educational Revenue Augmentation Fund for each of the 2004–05 and 2005–06 fiscal years an amount greater than that determined pursuant to subparagraph (I) of paragraph (2) of subdivision (a) if all of the following conditions are met:

(A) The agency does not exercise its authority under subdivision (b) to borrow from its Low and Moderate Income Housing Fund to finance its payments to the county's Educational Revenue Augmentation Fund.

(B) The agency does not have any outstanding loans from its Low and Moderate Income Housing Fund that were made under subdivision (b) of Section 33981.5, subdivision (b) of Section 33681.7, or subdivision (b) of Section 33681.9.

(C) The loan agreement requires the county to repay any excess remitted amounts, including interest, to the agency within three fiscal years subsequent to the fiscal year in which the loan is made.

(D) The agency making the loan does not participate in pooled borrowing under Section 33681.15.

(2) A loan agreement described in paragraph (1) shall be transmitted to the county auditor not later than December 1 of the fiscal year in which the loan is made. Any amount remitted by the agency to the county Educational Revenue Augmentation Fund for the 2004–05 or 2005–06 fiscal year in excess of the amount determined pursuant to paragraph (1) of subdivision (a) shall be credited to the amount that would otherwise be subtracted by the county auditor pursuant to subdivision (a) of Section 97.71 of the Revenue and Taxation Code for, as applicable, the 2004–05 and 2005–06 fiscal years.

(3) Notwithstanding subparagraph (C) of paragraph (1), a county redevelopment agency and a legislative body that have entered into a loan agreement under paragraph (1) may, by mutual consent, adopt either or both of the following modifications to that agreement:

(A) The repayment period may be extended, but the full repayment shall be completed no later than June 30, 2021.

(B) The repayment obligation may be offset by the amount of any expenditures by the county for capital improvements or deferred maintenance that substantially benefit any or all of the redevelopment project areas of the redevelopment agency if the agency approves the expenditure and the agency adopts a finding that the expenditure furthers the goals and objectives of the agency's redevelopment plan or plans.

SEC. 6. Section 11001.5 of the Revenue and Taxation Code is amended to read:

11001.5. (a) (1) Notwithstanding Section 11001, and except as provided in paragraph (2) and in subdivisions (b) and (d), 24.33 percent, and on and after July 1, 2004, 74.9 percent, of the moneys collected by the department under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and first allocated to the County of Orange as provided in subdivision (a) of Section 11005 and as necessary for the service of indebtedness as pledged by Sections 25350.6 and 53585.1 of the Government Code and in accordance with written instructions provided by the Controller under Sections 25350.7, 25350.9, and 53585.1 of the Government Code, and the balance shall be allocated to each city and city and county as otherwise provided by law.

(2) For the period beginning on and after July 1, 2003, and ending on February 29, 2004, the Controller shall deposit an amount equal to 28.07

percent of the moneys collected by the department under this part in the State Treasury to the credit of the Local Revenue Fund. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(b) (1) Notwithstanding Section 11001, net funds collected as a result of procedures developed for greater compliance with vehicle license fee laws in order to increase the amount of vehicle license fee collections shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Vehicle License Collection Account of the Local Revenue Fund as established pursuant to Section 17600 of the Welfare and Institutions Code. All revenues in excess of fourteen million dollars ($14,000,000) in the 2004–05 fiscal year and in any fiscal year thereafter shall be allocated to cities, counties, and cities and counties as follows:

(A) (i) Fifty percent shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For purposes of this subparagraph, the population of each city or city and county is that population determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code.

(ii) In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this subparagraph, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.

(B) Fifty percent shall be paid to the counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all counties and cities and counties, as

determined by the population research unit. For purposes of this subparagraph, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6 of the Revenue and Taxation Code.

(2) The amendments made to this section by the act that added this paragraph are operative upon the enactment of that act. However, the amendments made by the act that added this paragraph apply to revenues in the Vehicle License Collection Account in excess of fourteen million dollars ($14,000,000) in the 2004–05 fiscal year and any fiscal year thereafter.

(c) Notwithstanding Section 11001, 25.72 percent of the moneys collected by the department on or after August 1, 1991, and before August 1, 1992, under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(d) Notwithstanding any other provision of law, both of the following apply:

(1) This section is operative for the period beginning on and after March 1, 2004.

(2) It is the intent of the Legislature that the total amount deposited by the Controller in the State Treasury to the credit of the Local Revenue Fund for the 2003–04 fiscal year be equal to the total amount that would have been deposited to the credit of the Local Revenue Fund if paragraph (1) of subdivision (a) was applied during that entire fiscal year. The department shall calculate and notify the Controller of the adjustment amounts that are required by this paragraph to be deposited in the State Treasury to the credit of the Local Revenue Fund. The amounts deposited in the State Treasury to the credit of the Local Revenue Fund pursuant to this paragraph shall be deemed to have been deposited during the 2003–04 fiscal year.

(e) This section does not amend nor is it intended to amend or impair Section 25350 and following of, Section 53584 and following of, the Government Code, or any other statute dealing with the interception of funds.

SEC. 7. Section 38240.5 is added to the Vehicle Code, to read:

38240.5. For fees collected under Section 38230 before January 1, 2006, that have not been allocated on the operative date of this section,

the Controller shall allocate those fees on or before June 30, 2007, as follows:

(a) (1) Fifty percent of the fees shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For purposes of this paragraph, the population of each city or city and county is that population determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code.

(2) In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this paragraph, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.

(b) Fifty percent of the fees shall be paid to the counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all counties and cities and counties, as determined by the population research unit. For purposes of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6 of the Revenue and Taxation Code.

(c) This section is repealed on January 1, 2008.

SEC. 8. (a) Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider its statements of decision and parameters and guidelines for both of the following mandates:

(1) Cancer Presumption-Peace Officers (Test Claim Number CSM-4416).

(2) Firefighter's Cancer Presumption (Test Claim Number CSM-4081).

(b) The commission shall complete the reconsiderations required by subdivision (a) no later than six months after a final court decision is issued in the case of CSAC Excess Insurance Authority and City of Newport Beach v. Commission on State Mandates (Case No. B188169, an appeal in the Second District Court of Appeal consolidating Los Angeles County Superior Court Case No. BS092146 and No. BS095456).

(c) The reconsidered statements of decision required by subdivision (a) shall be effective for these mandates on July 1 after adoption by the commission.

(d) The Department of Industrial Relations, in consultation with the Department of Finance, shall submit relevant information to the commission in the reconsiderations required by subdivision (a).

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the changes necessary to implement the Budget Act of 2006 at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 79

An act to amend Sections 2558.46, 37254, 41203.1, 42238, 42238.146, 44244, 47632, 47634.1, 49430.5, 56836.155, 56836.21, 56867, 62000.2, 69616, 69616.1, 69616.2, 69616.3, 69616.4, 69616.5, 69741.5, 69744, 76300, and 89721 of, to amend and renumber the heading of Article 5.6 (commencing with Section 69616) of Chapter 2 of Part 42 of, and to add Sections 16236, 42238.48, and 69746.5 to, to add Article 4.5 (commencing with Section 52378) to Chapter 9 of Part 28 of, to repeal Sections 44242.3, 69747, and 69748 of, to repeal Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of, and to repeal and add Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2006. Filed with Secretary of State July 19, 2006.]

I am signing Assembly Bill 1802 with the following objections:

I am reducing one-time appropriations contained in subdivision (a) of Section 43 of the bill for community colleges:

I am reducing the appropriation in subdivision (a) of Section 43 of this bill by eliminating schedule (28), which allocates $500,000 for implementation of a community college strategic plan. Funding for the implementation of community college's strategic plan is not an appropriate use of Proposition 98 funds and can be funded by the Chancellor's Office to the extent this is a priority for that organization.

I am reducing the appropriation in subdivision (a) of Section 43 of this bill by eliminating schedule (29), which allocates $700,000 to support an Electronic Transcript Exchange program. This additional funding is unnecessary, given that the Budget Bill already provides federal reimbursement authority for this purpose.

I am reducing the appropriation in subdivision (a) of Section 43 of this bill by eliminating schedule (31), which allocates $5,000,000 to support faculty and staff professional development. This funding is unnecessary due to the significant increases in general purpose funding and one-time funds that are available for this and other purposes. Decisions to provide additional funding for these programs should be made at the local level.

As mentioned in my veto message on Item 6870-101-0001 in AB 1801, I am committed to increasing the amount of funding for career technical education given the magnitude of work remaining to be done to reinvigorate and align career technical in our high schools and community colleges. Therefore, I am setting these funds aside for appropriation in subsequent legislation for this purpose.

Also, Section 12 requires the State Department of Education to reimburse school districts $0.21 for every free and reduced-price meal served to California students. Currently, the reimbursement rate is $0.14 for free and reduced price meals. However, I have deleted and set aside $37.8 million included in the Budget Bill for this rate increase pending the adoption of legislation that would require schools to improve the nutritional quality of meals served to California students and restore the $37.8 million appropriation.

Schwarzenegger, Arnold

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

SECTION 1. Section 2558.46 of the Education Code is amended to read:

2558.46. (a) (1) For the 2003–04 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 1.195 percent deficit factor.

(2) For the 2004–05 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003–04 and 2004–05 fiscal years, the revenue limit for each county superintendent of schools determined pursuant to this article shall be further reduced by a 1.826 percent deficit factor.

(4) For the 2005–06 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be further reduced by a 0.898 percent deficit factor.

(b) In computing the revenue limit for each county superintendent of schools for the 2006–07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the 2003–04, 2004–05, and 2005–06 fiscal years without being reduced by the deficit factors specified in this section.

SEC. 2. Section 16236 is added to the Education Code, to read:

16236. Notwithstanding any other provision of law, the board may allocate any amount of the funds designated for purposes of this article that is in excess of the amounts needed for the administration of this article to any of the following:

(a) The Emergency School Classroom Fund for allocation by the board for any purpose authorized pursuant to that fund.

(b) The 1998 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(c) The 2002 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(d) The 2004 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(e) If the voters approve the Kindergarten-University Public Education Facilities Bond Act of 2006 at the November 7, 2006, statewide general election, the 2006 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(f) The State School Deferred Maintenance Fund for allocation by the board for any purpose authorized pursuant to that fund. The board may utilize up to 100 percent of the funds transferred by the board to the State School Deferred Maintenance Fund pursuant to this section for funding extreme hardship critical projects.

SEC. 3. Section 37254 of the Education Code is amended to read:

37254. (a) For purposes of this section, "eligible pupil" means a pupil who is required to pass the California High School Exit Examination for high school graduation pursuant to Chapter 8 (commencing with Section 60850) of Part 33, and who has failed one or both parts of that examination.

(b) (1) From the funds appropriated for purposes of this section in the annual Budget Act or other statute, the Superintendent shall determine a per pupil rate of funding by dividing the total number of eligible pupils in grade 12 reported by school districts in accordance with paragraph (4) of subdivision (d) by the total amount of funds appropriated for purposes of this section. The Superintendent shall then apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 12 pupils reported pursuant to paragraph (4) of subdivision (d).

(2) If funds appropriated for purposes of paragraph (1) are not exhausted after the apportionment for eligible pupils in grade 12 is made, the Superintendent shall determine a per pupil rate of funding by dividing the total number of eligible pupils in grade 11 reported by school districts in accordance with paragraph (4) of subdivision (d) by the total amount of funds appropriated for purposes of this section remaining after the apportionment pursuant to paragraph (1) has been made. The Superintendent shall apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 11 pupils reported pursuant to paragraph (4) of subdivision (d). The per pupil amount for grade 12 may not exceed five hundred dollars ($500) in the 2006–07 fiscal year. The maximum per pupil rate of funding for grade 12 shall be increased annually by the percentage determined in paragraph (2) of subdivision (b) of Section 42238.1

(c) (1) The funds described in subdivision (b) shall be used to provide intensive instruction and services designed to help eligible pupils pass the California High School Exit Examination.

(2) Intensive instruction and services may be provided during the regular schoolday provided that they do not supplant the instruction of the pupil in the core curriculum areas as defined in paragraph (5) of subdivision (a) of Section 60603, or physical education instruction.

(3) Intensive instruction and services may include, but are not limited to, all of the following:

(A) Individual or small group instruction.

(B) The hiring of additional teachers.

(C) Purchasing, scoring, and reviewing diagnostic assessments.

(D) Counseling.

(E) Designing instruction to meet specific needs of eligible pupils.

(F) Appropriate teacher training to meet the needs of eligible pupils.

(d) As a condition of receiving funds pursuant to subdivision (c), the school district shall accomplish all of the following:

(1) Ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need.

(2) Ensure that each pupil receives intensive instruction and services based on the results of the diagnostic assessment.

(3) Demonstrate that funds will be used to supplement and not supplant existing services.

(4) Provide to the Superintendent, in a manner and by a date certain determined by the Superintendent, the number of eligible pupils at each high school in the school district.

(5) Submit an annual report to the Superintendent in a manner determined by the Superintendent that describes the number of pupils

served for each type of service provided, and the number of pupils in the school district who successfully pass the high school exit examination by each type of service provided.

SEC. 4. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990–91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989–90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), the amount calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other law, this section does not apply to the 1992–93 to 2006–07 fiscal years, inclusive.

SEC. 5. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for a fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1995–96 fiscal year, the equalization adjustment specified in Section 42238.4.

(3) For the 1996–97 fiscal year, the equalization adjustments specified in Sections 42238.41, 42238.42, and 42238.43.

(4) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(5) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(6) For the 2004–05 fiscal year, the equalization adjustment specified in Section 42238.44.

(7) For the 2006–07 fiscal year, the equalization adjustment specified in Section 42238.48.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) (1) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(A) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(B) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(C) Add the amounts in subparagraphs (A) and (B).

(2) This subdivision shall become inoperative on July 1, 1998.

(e) For districts electing to compute units of average daily attendance pursuant to paragraph (2) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(f) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

(g) The reduction required by subdivision (f) shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees'

Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 was in effect during the 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 was in effect during the 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for either of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent.

(h) The Superintendent shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount, if any, received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section 33492.15, paragraph (4) of

subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(7) For a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, the amount of statewide average general-purpose funding per unit of average daily attendance received by school districts for each of four grade level ranges, as computed by the department pursuant to Section 47633, multiplied by the average daily attendance, in corresponding grade level ranges, of any pupils who attend charter schools funded pursuant to Chapter 6 (commencing with Section 47630) of Part 26.8 for which the district is the sponsoring local educational agency, as defined in Section 47632, and who reside in and would otherwise have been eligible to attend a noncharter school of the district.

(i) A transfer of seventh and eighth grade pupils between an elementary school district and a high school district shall not result in the receiving district receiving a revenue limit apportionment for those pupils that exceeds 105 percent of the statewide average revenue limit for the type and size of the receiving school district.

SEC. 6. Section 42238.48 is added to the Education Code, to read:

42238.48. (a) (1) For the 2006–07 fiscal year, the Superintendent shall compute an equalization adjustment for each school district, so that the 2005–06 base revenue limit per unit average daily attendance of a school district is not less than the 2005–06 base revenue limit per unit of average daily attendance above which fall not more than 10 percent of the total statewide units of average daily attendance for each category of school district set forth in subdivision (b).

(2) For purposes of this section, the 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 shall compute a revenue limit equalization adjustment for each school district's base revenue limit per unit of average daily attendance as follows:

(1) Multiply the amount computed for each school district pursuant to subdivision (a) by the average daily attendance used to calculate the revenue limit for the 2006–07 fiscal year of a school district.

(2) Divide the amount appropriated for purposes of this section for the 2006–07 fiscal year by the statewide sum of the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to paragraph (1) of subdivision (a) by the amount computed pursuant to paragraph (2).

(d) (1) For the purposes of this section, the 2005–06 statewide 90th percentile base revenue limit determined pursuant to paragraph (1) of subdivision (a), and the fraction computed pursuant to paragraph (2) of subdivision (c) for the 2005–06 second principal apportionment, shall be final, and shall not be recalculated at subsequent apportionments. The fraction computed pursuant to paragraph (2) of subdivision (c) shall not exceed 1.00. For purposes of determining the size of a school district pursuant to subdivision (b), county superintendents of schools, in conjunction with the Superintendent, shall use school district revenue limit average daily attendance for the 2005–06 fiscal year as determined pursuant to Section 42238.5 and Article 4 (commencing with Section 42280).

(2) For the purposes of calculating the size of a school district pursuant to subdivision (b), the Superintendent shall include units of average daily attendance of any charter school for which the school district is the sponsoring local educational agency.

(3) For the purposes of computing the target amounts pursuant to subdivision (a), the Superintendent shall count all charter school average daily attendance toward the average daily attendance of the school district that is the sponsoring local educational agency.

SEC. 7. Section 42238.146 of the Education Code is amended to read:

42238.146. (a) (1) For the 2003–04 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 1.198 percent deficit factor.

(2) For the 2004–05 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003–04 and 2004–05 fiscal years, the revenue limit for each school district determined pursuant to this article shall be further reduced by a 1.826 percent deficit factor.

(4) For the 2005–06 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.892 percent deficit factor.

(b) In computing the revenue limit for each school district for the 2006–07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2003–04, 2004–05, and 2005–06 fiscal years without being reduced by the deficit factors specified in this section.

SEC. 8. Section 44242.3 of the Education Code is repealed.

SEC. 9. Section 44244 of the Education Code is amended to read:

44244. (a) At least 30 days prior to any formal review of the Committee of Credentials at which the application of an applicant or credential of a holder is to be considered, the committee shall notify the applicant or holder of the specific allegations of misconduct that make the application or credential subject to adverse action. The notification shall be in ordinary and concise language and set forth the acts or omissions charged and the statutes or rules violated. Supplemental allegations of misconduct shall be sent to the holder or applicant at least 30 days prior to the formal review. The portions of the investigation of the original or supplemental allegations that constitute the basis for the allegations shall be open to inspection and copying by the holder or applicant and his or her attorney. The statement of the allegations shall inform the applicant or holder that the allegations, if true, are sufficient to cause his or her application or credential to be subject to adverse action.

(b) (1) The formal review shall be held no later than six months after the commencement of the initial review as set forth in subdivision (c) of Section 44242.5. The formal review shall determine either that no adverse action shall be taken or that the allegations are sufficient to cause his or her application or credential to be subject to adverse action.

(2) All testimony before the committee shall be verified under penalty of perjury by oath or affirmation. The chairperson of the committee may administer the oath or affirmation. The chairperson may designate staff to administer the oath or affirmation for statements taken during the investigation of allegations of misconduct.

(c) Notwithstanding subdivision (b), the chairperson of the commission may grant the committee an extension of time, not exceeding six months, when the committee demonstrates that additional time is necessary to complete its investigation or determination, as described in subdivision (b).

(d) The recommendation of the committee shall be in writing and a copy of the recommendation shall be delivered to the credentialholder or applicant personally or sent to him or her by certified mail within 14 days after the formal review, together with specific information relative to any appeal rights to which the credentialholder or applicant is entitled.

SEC. 10. Section 47632 of the Education Code is amended to read:

47632. For purposes of this chapter, the following terms shall be defined as follows:

(a) "General-purpose entitlement" means an amount computed by the formula set forth in Section 47633 beginning in the 1999–2000 fiscal year, which is based on the statewide average amounts of general-purpose funding from those state and local sources identified in Section 47633 received by school districts of similar type and serving similar pupil populations.

(b) "Categorical block grant" means an amount computed by the formula set forth in Section 47634 beginning in the 1999–2000 fiscal year, which is based on the statewide average amounts of categorical aid from those sources identified in Section 47634 received by school districts of similar type and serving similar pupil populations.

(c) "General-purpose funding" means those funds that consist of state aid, local property taxes, and other revenues applied toward a school district's revenue limit, pursuant to Section 42238.

(d) "Categorical aid" means aid that consists of state or federally funded programs, or both, which are apportioned for specific purposes set forth in statute or regulation.

(e) "Economic impact aid-eligible pupils" means those pupils that are included in the economic impact aid-eligible pupil count pursuant to Section 54023. For purposes of applying Section 54023 to charter schools, "economically disadvantaged pupils" means the pupils described in paragraph (2) of subdivision (a) of Section 54026.

(f) "Educationally disadvantaged pupils" means those pupils who are eligible for subsidized meals pursuant to Section 49552 or are identified as English learners pursuant to subdivision (a) of Section 306, or both.

(g) "Operational funding" means all funding except funding for capital outlay.

(h) "School district of a similar type" means a school district that is serving similar grade levels.

(i) "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.

(j) "Sponsoring local educational agency" means the following:

(1) If a charter school is granted by a school district, the sponsoring local educational agency is the school district.

(2) If a charter is granted by a county office of education after having been previously denied by a school district, the sponsoring local educational agency means the school district that initially denied the charter petition.

(3) If a charter is granted by the state board after having been previously denied by a local educational agency, the sponsoring local

educational agency means the local educational agency designated by the state board pursuant to paragraph (1) of subdivision (k) of Section 47605 or if a local educational agency is not designated, the local educational agency that initially denied the charter petition.

(4) For pupils attending county-sponsored charter schools who are eligible to attend those schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local educational agency means the pupils' school district of residence.

(5) For pupils attending countywide charter schools pursuant to Section 47605.6 who reside in a basic aid school district, the sponsoring local educational agency means the school district of residence of the pupil. For purposes of this paragraph, "basic aid school district" means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238.

SEC. 11. Section 47634.1 of the Education Code is amended to read:

47634.1. (a) Notwithstanding subdivision (a) of Section 47634, a categorical block grant for charter schools for the 2005–06 fiscal year shall be calculated as follows:

(1) The Superintendent shall divide the total amount of funding appropriated for the purpose of this block grant in the annual Budget Act or another statute, less the total amount calculated in paragraph (2), by the statewide total of charter school average daily attendance, as determined at the second principal apportionment for the 2005–06 fiscal year.

(2) The statewide average amount, as computed by the Superintendent, of funding per identified educationally disadvantaged pupil received by school districts in the current fiscal 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 54022. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

(3) For each charter school, the Superintendent shall multiply the amount calculated in paragraph (1) by the school's average daily attendance as determined at the second principal apportionment for the 2005–06 fiscal year.

(4) The Superintendent shall add the amounts computed in paragraphs (2) and (3). The resulting amount shall be the charter school 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. The Superintendent shall allocate an advance payment of this grant as early as possible, but no later than October 31, 2005, based on prior year average daily attendance as determined at the second principal apportionment or, for a charter school in its first year of operation that commences instruction on or before September 30, 2005, on estimates of average daily attendance for the current fiscal year determined pursuant to Section 47652.

(b) (1) For the 2006–07 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be four hundred dollars ($400) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2006–07 fiscal year. This amount shall be supplemented by the amount calculated in paragraph (2).

(2) The statewide average amount, as computed by the Superintendent, of funding per economic impact aid-eligible pupil count received by school districts in the current fiscal year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of economic impact aid-eligible 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 54022.

(c) (1) For the 2007–08 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be five hundred dollars ($500) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2007–08 fiscal year. For each fiscal year thereafter, this per unit amount shall be adjusted for the cost-of-living adjustment, as determined pursuant to Section 42238.1, for that fiscal year. This amount shall be supplemented in the 2007–08 fiscal year and each fiscal year thereafter by the amount calculated in paragraph (2).

(2) The statewide average amount, as computed by the Superintendent, of funding per economic impact aid-eligible pupil count received by school districts in the current year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of economic impact aid-eligible 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 54022.

(d) It is the intent of the Legislature to fully fund the categorical block grant for charter schools as specified in this section and to appropriate additional funding that may be needed in order to compensate for

unanticipated increases in average daily attendance and counts of economic impact aid-eligible pupils, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, in charter schools. In any fiscal year in which the department identifies a deficiency in the categorical block grant, the department shall identify the available balance for programs that count towards meeting the requirements of Section 8 of Article XVI of the California Constitution and have unobligated funds for the year. On or before July 1, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency, if any, in the categorical block grant. Within 45 days of the receipt of a notification of deficiency, the Director of Finance shall verify the amount of the deficiency in the categorical block grant and direct the Controller to transfer an amount, equal to the lesser of the amount available or the amount needed to fully fund the categorical block grant, from those programs to the categorical block grant. The Department of Finance shall notify the Joint Legislative Budget Committee within 30 days of any transfer made pursuant to this section.

(e) Commencing October 1, 2007, the Legislative Analyst's Office shall triennially convene a work group to review, commencing with appropriations proposed for the 2008–09 fiscal year, the appropriateness of the funding level provided by the categorical block grant established in this section.

(f) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

SEC. 12. Section 49430.5 of the Education Code is amended to read:

49430.5. (a) The reimbursement a school receives for free and reduced price meals sold or served to pupils in elementary, middle, or high schools included within a school district, charter school, or county office of education shall be twenty-one cents ($0.21).

(b) To qualify for the reimbursement for free and reduced price meals provided to pupils in elementary, middle, or high schools, a school shall follow the Enhanced Food Based Meal Pattern, Nutrient Standard Meal Planning, or Traditional Meal Pattern developed by the United States Department of Agriculture or the SHAPE Menu Patterns developed by the state.

(c) The reimbursement rates set forth in this section shall be adjusted annually for increases in cost of living in the same manner set forth in Section 42238.1.

SEC. 13. Article 4.5 (commencing with Section 52378) is added to Chapter 9 of Part 28 of the Education Code, to read:

Article 4.5. Supplemental School Counseling Program

52378. The Middle and High School Supplemental Counseling Program is hereby established for the purpose of providing additional counseling services to pupils in grades 7 to 12, inclusive. As a condition of receiving funds, the governing board of each school district maintaining any of grades 7 to 12, inclusive, shall do all of the following:

(a) The program shall be adopted at a public meeting of the governing board and shall include all of the following:

(1) A provision for individualized review of the pupil's academic and deportment records.

(2) A provision for a counselor to meet with each pupil and if practicable, the parents or guardian of the pupil, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination and the availability of career technical education. The educational options explained at the meeting shall, if services are available, include college preparatory program and vocational programs, including regional occupational centers and programs and any other alternatives available to pupils within the district.

(b) In addition to the counseling services described in subdivision (a), school districts shall identify pupils who are at risk of not graduating with the rest of their class, are not earning credits at a rate that will enable them to pass the high school exit examination, or do not have sufficient training to allow them to fully engage in their chosen career, and shall do all of the following:

(1) Require each school within its jurisdiction that enrolls pupils in grades 10 and 12 to develop a list of coursework and experience necessary to assist each pupil in their respective grade that has not passed one or both parts of the high school exit examination and to successfully transition to postsecondary education or employment.

(2) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each pupil in grade 7 who is deemed to be at the far below basic level in English language arts or mathematics pursuant to California Standards Tests administered to pupils in grade 6 to successfully transition to high school and meet all graduation requirements, including passing the high school exit examination.

(3) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(c) (1) In addition to the items identified in subdivision (b), the list of coursework and experience for a pupil enrolled in grade 12 shall include options for continuing his or her education if he or she fails to meet graduation requirements. These options shall include, but not be limited to, all of the following:

(A) Enrolling in an adult education program.

(B) Enrolling in a community college.

(C) Continuing enrollment in the pupil's school district.

(2) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(d) As a condition of receipt of funds pursuant to this article, a school district shall require each school within its jurisdiction to offer and schedule an individual conference with each pupil, identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian, and a school counselor. The individual conference shall be scheduled, to the extent feasible, according to the following requirements:

(1) For a pupil enrolled in grade 7, the conference shall occur before January of that school year in which the pupil is enrolled in grade 7.

(2) For a pupil enrolled in grade 10, the conference shall occur between the spring of that school year in which the pupil is enrolled in grade 10 and the fall of the following school year in which the pupil would be enrolled in grade 11. For the 2006–07 school year, the conference shall occur on or before December 31, 2006.

(3) For a pupil enrolled in grade 12, the conference shall occur after November of that school year in which the pupil is enrolled in grade 12, but before March of the same school year.

(e) During the individual conference described in subdivision (d), the school counselor shall apprise the pupil identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or guardian of the following:

(1) Consequences of not passing the high school exit examination.

(2) Programs, courses, and career technical education options available for pupils needed for satisfactory completion of middle or high school.

(3) Cumulative records and transcripts of the pupil.

(4) Performance on standardized and diagnostic assessments of the pupil.

(5) Remediation strategies, high school courses, and alternative education options available to the pupil.

(6) Information on postsecondary education and training.

(7) The pupil's score on the English language arts or mathematics portion of the California Standards Test administered in grade 6, as applicable.

52379. (a) Funds appropriated in the annual Budget Act for the purposes of this chapter shall be allocated to school districts based on an equal amount per unit of average daily attendance in grades 7 to 12, inclusive, with the following minimum-grant exceptions:

(1) Five thousand dollars ($5,000) for each school site that has 100 or fewer pupils enrolled in any of grades 7 to 12, inclusive.

(2) Ten thousand dollars ($10,000) for each school site that has between 101 and 200 pupils enrolled in any of grades 7 to 12, inclusive.

(3) Thirty thousand dollars ($30,000) or an amount per unit of average daily attendance, whichever is greater, for each school site with more than 200 pupils enrolled in any of grades 7 to 12, inclusive.

(b) Funds allocated pursuant to this section shall supplement, and not supplant, expenditures made by a school district for school counseling programs.

(c) For purposes of this section, a charter school is not eligible to receive a minimum grant but instead shall receive an amount per unit of average daily attendance in grades 7 to 12, inclusive.

52380. As a condition of receipt of funds pursuant to this chapter, a school district shall submit an annual report in a manner determined by the Superintendent that describes the number of pupils served, the number of school counselors involved in conferences, the number and percentage of pupils who participated in conferences and who successfully pass the high school exit examination, and the number and percentage of pupils who participated in conferences and who fail to pass one or both sections of the exit examination, and a summary of the most prevalent results for pupils based on the graduation plans developed pursuant to this chapter.

SEC. 14. Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of the Education Code is repealed.

SEC. 15. Article 2 (commencing with Section 54020) is added to Chapter 1 of Part 29 of the Education Code, to read:

Article 2. Economic Impact Aid

54020. It is the intent of the Legislature that funds authorized pursuant to this chapter replace, as of July 1, 1979, funds previously authorized to support educationally disadvantaged youth programs and bilingual education. To that end, the purpose of this article is to provide a method of impact aid allocation to be utilized by the Superintendent, that will allow efforts initiated under those programs to continue and expand so long as a need exists while previously unserved and underserved populations are provided with adequate aid.

54021. For the 2006–07 fiscal year, the Superintendent shall make the following calculations for each school district:

(a) Using the methodology specified in Section 54023, determine the economic impact aid-eligible pupil count for each school district for the 2005–06 fiscal year as if Section 54023 had been in effect for that fiscal year.

(b) Divide the school district economic impact aid calculated funding in the 2005–06 fiscal year, excluding the minimum grant specified in Section 54031, as it read during that fiscal year, by the number calculated pursuant to subdivision (a).

(c) For the purpose of calculating the economic impact aid allocations for the 2006–07 fiscal year, the quotient calculated in subdivision (b) shall be deemed to be the prior year economic impact aid per pupil amount for the 2006–07 fiscal year.

(d) For the purpose of establishing a base year economic impact aid per pupil amount pursuant to this section, if a school district received an allocation for the economic impact aid program in the 2005–06 fiscal year, but has no economic impact aid eligible pupils as determined in Section 54023 for that year, the school district shall be deemed to have a prior-year economic impact aid per pupil amount for the 2006–07 fiscal year that is equal to the statewide average economic impact aid per pupil amount for the 2005–06 fiscal year calculated for the state as a whole as specified in subdivisions (a) and (b).

54022. For the 2006–07 fiscal year and each fiscal year thereafter, each school district shall receive the amount of economic impact aid determined by the Superintendent pursuant to subdivision (b) or (c), whichever is greater, calculated for each school district according to all of the following:

(a) Increase the prior fiscal year economic impact aid per pupil amount by the percentage change specified in paragraph (2) of subdivision (b) of Section 42238.1 for the current fiscal year.

(b) Multiply the economic impact aid per pupil amount for the current fiscal year calculated in subdivision (a) by the economic impact aid-eligible pupil count for the current fiscal year as calculated in Section 54023.

(c) A school district shall, at a minimum, receive funds based on the number of economic impact aid-eligible pupils according to the following schedule:

(1) For the 2006–07 fiscal year, according to the following table:

Number of economic impact aid-eligible pupils	Amount
0	None
1–20	$5,500
21 or more	$8,300

(2) For the 2007–08 fiscal year and each fiscal year thereafter, the minimum amounts for the schedule in paragraph (1) for the prior fiscal year shall be increased by the percentage change specified in paragraph (2) of subdivision (b) of Section 42238.1.

54023. For the 2006–07 fiscal year and each fiscal year thereafter, the economic impact aid-eligible pupil count shall be calculated for each school district as follows:

(a) Determine the count of economically disadvantaged pupils for the current fiscal year, as defined in Section 54026.

(b) Determine the count of English learners for the current fiscal year, as defined in subdivision (b) of Section 54026.

(c) Calculate an economic impact aid weighted pupil concentration factor:

(1) Add the pupil counts determined in subdivisions (a) and (b).

(2) Divide the fall CBEDS enrollment for the school district for the prior school year by two.

(3) Subtract from the sum calculated in paragraph (1) the quotient calculated in paragraph (2).

(4) If the result of the calculation in paragraph (3) is greater than zero, multiply that difference by 0.5. If the result is less than zero, it shall be deemed to be zero.

(d) The economic impact aid-eligible pupil count for each school district shall equal the sum of the pupil counts determined in subdivisions (a) and (b), and the weighted pupil concentration factor determined in subdivision (c).

54024. The state board may, pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, waive any statutory provision or regulation regarding the use of funds apportioned pursuant to this article, provided that the funds are used in the same schools, or in schools with similar need levels, and the district demonstrates a reasonable case that the waiver will improve pupil services in those schools.

54025. (a) A school district shall expend economic impact aid funds to serve and assist English learners and economically disadvantaged pupils and may not expend those funds at schoolsites that do not have English learners or economically disadvantaged pupils.

(b) A school shall use funds received pursuant to this article to support programs and activities designed to assist English learners achieve proficiency in the English language as rapidly as practicable and to support programs and activities designed to improve the academic achievement of English learners and economically disadvantaged pupils.

(c) Funds received by school districts pursuant to this article shall supplement, and not supplant, existing resources at the schoolsite.

54026. For purposes of this article, the following definitions apply:

(a) "Economically disadvantaged pupils" means either of the following, whichever is applicable:

(1) Pupils described in Section 101 of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6333(c)(1)(A)(B)).

(2) Notwithstanding paragraph (1), for a small school district, the product of the number of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d), and the free meals adjustment factor. The free meals adjustment factor is the quotient, rounded to two decimal places, resulting from dividing the statewide total of economically disadvantaged pupils as defined in paragraph (1) by the statewide total of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d). For purposes of this subdivision, the department may substitute the current year counts of a charter school that is established on or after July 1, 2006, but not through the conversion of an existing public school, for prior year counts of pupils eligible for participation in free meals.

(b) "English learner" means a pupil described in subdivision (a) of Section 306 or identified as a pupil of limited English proficiency, as that term is defined in subdivision (m) of Section 52163.

(c) "Small school district" means a school district that has an annual enrollment of less than 600 pupils based on prior school year CBEDS data and is, for the purposes of this section, designated a rural school by the Superintendent based on the appropriate school locale codes, as used by the National Center for Education Statistics of the United State Department of Education.

(d) "Free meals" means the aggregate number of pupils meeting the income eligibility guidelines established by the federal government for free meals as reported for all schools for which the district is the authorizing agency.

54027. If a school district reorganizes either by unification or by consolidation with another school district of similar type, the Superintendent shall calculate an economic impact aid per pupil amount based on the respective per pupil amounts for each school district participating in the reorganization, weighted by the number of economic impact aid-eligible pupils contributed by each school district. The Superintendent shall use the appropriate data from the year prior to the year that the reorganization is effective for all purposes.

54028. Notwithstanding any other provision of law, the provisions of this article are subject to Sections 62002.5 and 62004, and to the portions of Section 62003 that relate to auditing the use of funds allocated for purposes of economic impact aid.

SEC. 16. Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of the Education Code is repealed.

SEC. 17. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Office of the Legislative Analyst, shall do the following:

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Office of the Legislative Analyst for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998–99 fiscal year and each fiscal year thereafter to and including the 2006–07 fiscal year, the Superintendent shall perform the following calculation to determine each special education local plan area's adjusted entitlement for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be

excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997–98 fiscal year, the Superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997–98 fiscal year.

SEC. 18. Section 56836.21 of the Education Code is amended to read:

56836.21. (a) The department shall administer an extraordinary cost pool to protect special education local plan areas from the extraordinary costs associated with single placements as described in subdivision (d). Funds shall be appropriated for this purpose in the annual Budget Act. Special education local plan areas shall be eligible for reimbursement from this pool in accordance with this section.

(b) The threshold amount for claims under this section shall be the lesser of the following:

(1) One percent of the allocation calculated pursuant to Section 56836.08 for the special education local plan area for the current fiscal year for any special education local plan area that meets the criteria in Section 56212.

(2) The department shall calculate the average cost of a nonpublic, nonsectarian school placement in the 1997–98 fiscal year. This amount shall be multiplied by 2.5, then by one plus the inflation factor computed pursuant to Section 42238.1, to obtain the alternative threshold amount for claims in the 1998–99 fiscal year. In subsequent fiscal years, the alternative threshold amount shall be the alternative threshold amount for the prior fiscal year multiplied by one plus the inflation factor computed pursuant to Section 42238.1.

(c) Special education local plan areas are eligible to submit claims for costs exceeding the threshold amount on forms developed by the department. All claims for a fiscal year shall be submitted by November 30 following the close of the fiscal year. If the total amount claimed by special education local plan areas exceeds the amount appropriated, the claims shall be prorated.

(d) Special education local plan areas are eligible to submit claims for the costs of nonpublic, nonsectarian school placements in excess of those in existence in the 1997–98 fiscal year and of special education and related services for pupils who reside in licensed children's institutions.

SEC. 19. Section 56867 of the Education Code is amended to read:

56867. (a) The State Department of Education is responsible for monitoring the Division of Juvenile Justice of the Department of Corrections and Rehabilitation for compliance with state and federal laws and regulations regarding special education.

(b) Notwithstanding any other provision of law, the State Department of Education and the California State University shall enter into an interagency agreement under which the Center for the Study of Correctional Education, located on the California State University, San Bernardino campus, shall provide technical assistance to the State Department of Education regarding compliance with state and federal laws and regulations regarding special education at the Division of Juvenile Justice of the Department of Corrections and Rehabilitation.

(c) The State Department of Education shall prepare the interagency agreement in consultation with the California State University, San Bernardino, and the superintendent of education for the Division of Juvenile Justice of the Department of Corrections and Rehabilitation. The interagency agreement shall require the center to provide all of the following services to the Special Education Division of the State Department of Education:

(1) Assistance in providing reviews and assessments of special education at each schoolsite in the Division of Juvenile Justice of the Department of Corrections and Rehabilitation.

(2) Assistance in drafting reports of findings for each review.

(3) Assistance in drafting corrective action plans, based on preliminary findings of noncompliance that include specific suggested outcomes to achieve compliance, and other instruments conveying recommendations and suggestions resulting from reviews and assessments.

(4) Onsite technical assistance and support to the Division of Juvenile Justice of the Department of Corrections and Rehabilitation, as authorized by the Special Education Division of the State Department of Education.

(5) Identifying and developing suggested draft protocols and best practices for providing special education services in correctional settings.

(6) Developing suggested draft protocols and a suggested draft best practices model for providing monitoring and technical assistance services for special education in youthful correctional settings.

(7) Evaluating the training needs and priorities of educational personnel serving wards with exceptional needs at the Division of Juvenile Justice of the Department of Corrections and Rehabilitation.

(8) Reviewing the Division of Juvenile Justice of the Department of Corrections and Rehabilitation current special education local plan, policies, procedures, and forms of the Division of Juvenile Justice of the Department of Corrections and Rehabilitation for compliance with state and federal special education law and, with the approval of the State Department of Education, providing suggested revisions as necessary to provide better compliance and to better reflect the best practices in a correctional setting.

(d) Technical assistance provided pursuant to this section shall reflect existing or subsequently adopted standards for state and federal compliance. Reviews conducted pursuant to this section shall include, but not be limited to, assessments of the following special education services for wards at the Division of Juvenile Justice of the Department of Corrections and Rehabilitation with exceptional needs:

(1) Identification and assessment of wards with exceptional needs.

(2) Parent notification, consent, and participation.

(3) Individual education plan development and content, including behavior intervention and transition plans.

(4) Assessment of ward progress.

(5) Provision of services in the least restrictive environment maximizing inclusion.

(6) Services to pupils who are not proficient in English.

(7) Observance of procedural safeguards and compliance with state and federal law.

(e) Commencing no later than one year after entering into the interagency agreement specified in this section and annually thereafter until termination of the agreement, with the assistance of the center, the State Department of Education shall provide interim status reports of the services received from the center pursuant to this section to the Department of Finance and the Legislature.

(f) No later than December 1, 2006, the State Department of Education shall submit a report to the Legislature on the usefulness of the services received from the center pursuant to the interagency agreement required by this section.

(g) The interagency agreement required by this section shall be funded through an appropriation made in the annual Budget Act with federal funds made available for state agencies under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following).

(h) This section shall remain in effect only 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. 20. Section 62000.2 of the Education Code is amended to read:

62000.2. The following programs shall sunset on June 30, 1987:

(a) Miller-Unruh Basic Reading Act of 1965.

(b) School improvement program.

(c) Bilingual education.

SEC. 21. The heading of Article 5.6 (commencing with Section 69616) of Chapter 2 of Part 42 of the Education Code is amended and renumbered to read:

Article 5.3. State Nursing Assumption Program of Loans for Education (SNAPLE)

SEC. 22. Section 69616 of the Education Code is amended to read:

69616. (a) The Legislature hereby recognizes the growing need for new faculty members in the nursing field at California's colleges and universities. This need will be fueled largely by the large number of current faculty approaching retirement age who will need to be replaced and the expected growth in enrollment demand in California. Further, to increase the supply of nurses in California, there must be an expansion of nursing educator opportunities in public colleges and universities that will produce the necessary faculty to teach in nursing programs in the state.

(b) The Legislature finds that the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a graduate degree in nursing education or in a field related to nursing.

(c) It is the intent of the Legislature that the State Nursing Assumption Program of Loans for Education (SNAPLE) be designed to encourage persons to complete their graduate educations and serve as nursing faculty in a registered nursing program at an accredited California college or university.

(d) As used in this article, "commission" means the Student Aid Commission.

SEC. 23. Section 69616.1 of the Education Code is amended to read:

69616.1. (a) Program participants shall meet all of the following eligibility criteria prior to selection into the program and shall continue to meet these criteria, as appropriate, during the payment periods:

(1) The participant shall be a United States citizen or eligible noncitizen.

(2) The participant shall be a California resident attending an eligible school or college.

(3) The participant shall be making satisfactory academic progress.

(4) The participant shall have complied with United States Selective Service requirements.

(5) The participant shall not owe a refund on any state or federal educational grant or have delinquent or defaulted student loans.

(b) Any person enrolled in an institution of postsecondary education and participating in the loan assumption program set forth in this article may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to this act upon becoming employed as a full-time nursing faculty member at a California college or university or the equivalent of full-time service as a nursing faculty member employed part time at two or more California colleges or universities.

(c) (1) The commission shall award loan assumption agreements to undergraduate students with demonstrated academic ability and financial need, as determined by the commission pursuant to Article 1.5 (commencing with Section 69503), and to graduate students with demonstrated academic ability.

(2) The applicant shall have completed a baccalaureate degree program or be enrolled in an academic program leading to a baccalaureate level or a graduate level degree.

(3) The applicant shall be currently enrolled in or admitted to a program in which he or she will be enrolled on at least a half-time basis each academic term as defined by an eligible institution. The applicant shall agree to maintain satisfactory academic progress.

(4) The applicant shall have been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(5) The applicant shall have received, or be approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) The Federal Direct Loan Program.

(C) Any loan program approved by the commission.

(6) The applicant shall have agreed to teach nursing on a full-time basis at one or more accredited California colleges or universities for at least three years, or on a part-time basis for the equivalent of three full-time academic years, commencing not more than 12 months after obtaining an academic degree, unless the applicant, within 12 months after obtaining the academic degree, enrolls in an academic degree program leading to a more advanced degree in nursing or a field related to nursing.

(7) An applicant who teaches on less than a full-time basis may participate in the program, but is not eligible for loan repayment until that person teaches for the equivalent of a full-time academic year.

(d) A person participating in the program pursuant to this section shall not receive more than one loan assumption agreement.

SEC. 24. Section 69616.2 of the Education Code is amended to read:

69616.2. The commission shall commence loan assumption payments pursuant to this article upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a baccalaureate degree or a graduate degree from an accredited, participating institution.

(b) The applicant has provided the equivalent of full-time nursing instruction at one or more regionally accredited California colleges or universities for one academic year or the equivalent.

(c) The applicant has met the requirements of the loan assumption agreement and all other conditions of this article.

SEC. 25. Section 69616.3 of the Education Code is amended to read:

69616.3. The terms of the loan assumptions granted under this article shall be as follows, subject to the specific terms of each loan assumption agreement:

(a) After a program participant has completed one academic year, or the equivalent of full-time teaching nursing studies, at one or more regionally accredited, eligible California colleges or universities, the commission shall assume up to eight thousand three hundred thirty-three dollars ($8,333) of the outstanding liability of the participant under one or more of the designated loan programs.

(b) After the program participant has completed two consecutive academic years, or the equivalent of full-time teaching, at one or more regionally accredited California colleges or universities, the commission shall assume up to an additional eight thousand three hundred thirty-three dollars ($8,333) of the outstanding liability of the participant under one or more of the designated loan programs, for a total loan assumption of up to sixteen thousand six hundred sixty-six dollars ($16,666).

(c) After a program participant has completed three consecutive academic years, or the equivalent of full-time teaching, at one or more regionally accredited California colleges or universities, the commission shall assume up to an additional eight thousand three hundred thirty-four dollars ($8,334) of the outstanding liability of the participant under one or more of the designated loan programs, for a total loan assumption of up to twenty-five thousand dollars ($25,000).

(d) The commission may assume liability for loans received by the program participant to pay for the costs of obtaining the program participant's undergraduate and graduate degrees.

(e) The term of the loan assumption agreement shall be not more than 10 years from the date on which the agreement was executed by the program participant and the commission.

SEC. 26. Section 69616.4 of the Education Code is amended to read:

69616.4. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of three academic years of teaching on a full-time basis or the equivalent on a part-time basis, as required by this article under the terms of the agreement pursuant to paragraph (6) of subdivision (c) of Section 69616.1, the loan assumption agreement is no longer effective and shall be deemed terminated, and the commission shall not make any further payments. The participant shall resume responsibility for any remaining loan obligations, but shall not be required to repay any loan payments previously made through this program.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the three years of teaching service on a full-time basis, or the equivalent on a part-time basis, due to a serious illness, pregnancy, or other natural causes, the term of the loan assumption agreement shall be extended for a period not to exceed one academic year. The commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified in Section 69616.3 have been satisfied.

(c) If a natural disaster prevents a program participant from completing one of the required years of teaching service due to the interruption of instruction at the employing accredited California college or university, the term of the loan assumption agreement shall be extended for the period of time equal to the period from the interruption of instruction at the employing accredited California college or university to the resumption of instruction. The commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified in Section 69616.3 have been satisfied.

SEC. 27. Section 69616.5 of the Education Code is amended to read:

69616.5. (a) The commission shall accept nominations from accredited colleges and universities made pursuant to this article.

(b) The commission shall choose from among those nominations of undergraduate students deemed financially needy with outstanding student loans pursuant to Article 1.5 (commencing with Section 69503), and of graduate students with outstanding student loans, based upon criteria that may include, but are not necessarily limited to, all of the following:

(1) Grades at the undergraduate level in a subject field related to nursing.

(2) Grades in the undergraduate program.

(3) Aptitude for graduate work in the field of nursing.

(4) General aptitude for graduate study.

(5) Critical human resource needs.

(c) The commission may develop additional criteria for the selection of award recipients consistent with the purposes of this article.

SEC. 28. Section 69741.5 of the Education Code is amended to read:

69741.5. (a) Participants in this program are eligible for a maximum of eleven thousand dollars ($11,000) in loan assistance for four years, as follows:

(1) For the first year, two thousand dollars ($2,000) in loan repayment assistance.

(2) For the second, third, and fourth years, three thousand dollars ($3,000) in loan repayment assistance for each year.

(b) Notwithstanding any other provision of law, in any fiscal year, the commission shall award no more than the number of warrants that are authorized in the annual Budget Act for that fiscal year for the assumption of loans pursuant to this article.

SEC. 29. Section 69744 of the Education Code is amended to read:

69744. The commission may use the funds appropriated for the program for the purpose of loan repayments and to defray reasonable administrative costs. The commission shall annually establish the total amount of funding to be awarded for loan repayments. Allocation of funds shall be established based upon the best use of funding for that year, as determined by the commission.

SEC. 30. Section 69746.5 is added to the Education Code, to read:

69746.5. The commission shall submit an annual written report to the Legislature regarding this program. The report shall include, but not necessarily be limited to, all of the following data:

(a) The total number of loan repayment awards made under the program in the immediately preceding fiscal year, classified by the repayment year as described in subdivision (a) of Section 69741.5.

(b) The total amount of funds expended for the purposes of loan repayments, and the total amount of funds expended to defray administrative costs, in the immediately preceding fiscal year.

(c) The annual and cumulative attrition rates of participants, as calculated through the end of the immediately preceding fiscal year.

SEC. 31. Section 69747 of the Education Code is repealed.

SEC. 32. Section 69748 of the Education Code is repealed.

SEC. 33. Section 76300 of the Education Code is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be twenty dollars ($20) per unit per semester, effective with the spring term of the 2006–07 academic year.

(2) The board of governors shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the board of governors may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the board of governors shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The board of governors shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) (1) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Temporary Assistance to Needy Families program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(2) The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by regulations of the board of governors.

(3) Paragraphs (1) and (2) may be applied to a student enrolled in the 2005–06 academic year if the student is exempted from nonresident tuition under paragraph (3) of subdivision (a) of Section 76140.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following applies:

(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 for determining nonresident and resident tuition.

(*l*) (1) "Dependent," for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person attains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents ($0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive, for determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. Funds allocated to a community college district for determination of financial need 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 1992–93 fiscal year.

(n) The board of governors shall adopt regulations implementing this section.

SEC. 34. Section 89721 of the Education Code is amended to read:

89721. Notwithstanding any other provision of law, the chief fiscal officer of each campus of the California State University shall deposit

into and maintain in local trust accounts or in trust accounts in accordance with Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University Trust Fund, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services, materials, and facilities authorized by Section 89700 if these fees or charges are required of those persons who, at their option, use the services or facilities, or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing these services, materials, and facilities.

(h) Fees for instructionally related activities as defined by the trustees and as authorized by Section 89700 and revenues derived from the conduct of the instructionally related activities. The trustees shall have all authority necessary to administer and use the fees and revenues received and deposited to support such instructionally related activities.

(i) Fees for parking, health facilities or health services, and for extension programs, special sessions, and other self-supporting instructional programs.

(j) Revenue received by the trustees from the California State Lottery Education Fund pursuant to Section 8880.5 of the Government Code.

(k) Moneys received by the trustees for research, workshops, conferences, institutes, and special projects.

(*l*) Moneys collected as higher education fees and income from students of any campus of the California State University and from other persons pursuant to Section 89700. The Controller shall have the authority to audit the expenditure of these funds.

SEC. 35. (a) For the 2006–07 fiscal year, the Superintendent shall add to the amount determined pursuant to Section 54022 of the Education Code for each school district a supplemental adjustment calculated as follows:

(1) Calculate the difference between the number six hundred (600) and the number that is equal to the per pupil economic impact aid amount for the school district calculated pursuant to subdivision (b) of Section 54022.

(2) If the difference pursuant to subdivision (a) is greater than zero, multiply that difference by the economic impact aid-eligible pupil count for the school district for the current school year.

(3) Calculate the available funds factor by dividing the funds available for supplemental adjustments pursuant to this section, as specified in subdivision (e), by the product pursuant to subdivision (b) for all school districts.

(4) Multiply the amount calculated pursuant to subdivision (b), if applicable, by the available funds factor calculated in subdivision (c). The result is the adjustment a school district shall receive for the 2006–07 fiscal year pursuant to this section.

(5) Determine the funds available for the supplemental adjustment according to the following calculation:

(A) Calculate the total statewide economic impact aid allocation amount for the 2006–07 fiscal year as the sum of each school districts allocation determined pursuant to Section 54022 of the Education Code.

(B) From the total of funds appropriated for the purposes of this article in the 2006–07 fiscal year, subtract the amount determined in paragraph (1). This remainder is the amount of funds available for the economic impact aid adjustment allocated pursuant to this section.

(b) For the 2007–08 fiscal year, the Superintendent shall add to the economic impact aid per pupil amount calculated pursuant to subdivision (a) of Section 54022 of the Education Code the quotient that is equal to the adjustment received by each school district pursuant to this section in the 2006–07 fiscal year divided by the economic impact aid-eligible pupil count for the 2006–07 fiscal year.

SEC. 36. Notwithstanding subdivision (a) of Section 54022 of the Education Code, the Superintendent of Public Instruction shall not, for the 2006–07 fiscal year, increase the prior year economic impact aid per pupil amount for a school district, as specified in that subdivision, if the prior year amount is greater than six hundred dollars ($600).

SEC. 37. (a) Three hundred eighty-eight million two hundred eighty-three thousand dollars ($388,283,000) is hereby appropriated from the General Fund, for expenditure during the 2007–08 fiscal year, in accordance with the following schedule:

(1) Six million two hundred twenty-seven thousand dollars ($6,227,000) to the State Department of Education for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of 2006.

(2) Sixty-three million three hundred ninety-one thousand dollars ($63,391,000) to the State Department of Education for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2006. Of the amount appropriated by this paragraph, fifty-one million sixty-one thousand dollars ($51,061,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2006, and twelve million three hundred thirty thousand dollars ($12,330,000) shall be expended consistent with Schedule (2) of that item.

(3) Twenty-six million seven hundred twenty-six thousand dollars ($26,726,000) to the State Department of Education for the Pupil Retention Block Grant to be expended consistent with the requirements specified in Item 6110-243-0001 of Section 2.00 of the Budget Act of 2006.

(4) Thirty-nine million six hundred thirty thousand dollars ($39,630,000) to the State Department of Education for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of 2006.

(5) Fifty-two million five hundred eighty-three thousand dollars ($52,583,000) to the State Department of Education for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2006.

(6) Four million two hundred ninety-four thousand dollars ($4,294,000) to the State Department of Education for the Gifted and Talented Pupil Program to be expended consistent with the requirements specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of 2006.

(7) Forty-five million eight hundred ninety-six thousand dollars ($45,896,000) to the State Department of Education for adult education to be expended consistent with the requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of 2006.

(8) Four million seven hundred fifty-one thousand dollars ($4,751,000) to the State Department of Education for community day schools to be expended consistent with the requirements specified in of Item 6110-190-0001 of Section 2.00 of the Budget Act of 2006.

(9) Five million nine hundred forty-seven thousand dollars ($5,947,000) to the State Department of Education for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 the Budget Act of 2006.

(10) Thirty-eight million seven hundred twenty thousand dollars ($38,720,000) to the State Department of Education for the School Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of 2006.

(11) One hundred million one hundred eighteen thousand dollars ($100,118,000) to the State Department of Education for Targeted Instructional Improvement Grant Program to be expended consistent with the requirements specified in Item 6110-246-0001 of Section 2.00 of the Budget Act of 2006.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2007–08 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2007–08 fiscal year.

SEC. 38. (a) Two hundred million dollars ($200,000,000) is hereby appropriated to the Board of Governors of the California Community Colleges for apportionments to community college districts, for expenditure during the 2007–08 fiscal year, to be expended in accordance with the requirements specified in Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2006.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) of this section shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2007–08 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2007–08 fiscal year.

SEC. 39. Notwithstanding any other law, the funds appropriated pursuant to Items 6110-103-0001, 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-161-0001, 6110-190-0001, 6110-211-0001, and 6110-243-0001 of Section 2.00 of the Budget Act of 2006 shall be available for liquidation through July 31, 2009, and after that date, all remaining unexpended funds in those items shall revert to the Proposition 98 Reversion Account.

SEC. 40. (a) (1) Notwithstanding subdivision (d) of Section 41207 of the Education Code, the sum of sixteen million eight hundred eleven

thousand dollars ($16,811,000) of the funds appropriated in Section 21 of Chapter 491 of the Statutes of 2005 and one hundred thirty-three million one hundred eighty-nine thousand dollars ($133,189,000) of the funds appropriated in subdivision (a) of Section 44 of this act shall be in lieu of the amount of one hundred fifty million dollars ($150,000,000) that would have otherwise been appropriated for the 2006–07 fiscal year pursuant to subdivision (d) of Section 41207 of the Education Code.

(2) One hundred twenty-five million dollars ($125,000,000) of the amount described in subparagraph (A) of, and the twenty-five million dollars ($25,000,000) described in subparagraph (B) of, paragraph (3) of subdivision (a) of Section 44 of this act shall be in lieu of the amount of one hundred fifty million dollars ($150,000,000) that would have otherwise been appropriated for the 2007–08 fiscal year required pursuant to subdivision (d) of Section 41207.

SEC. 41. Notwithstanding Sections 42238.1 and 42238.15 of the Education Code or any other law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-189-0001, 6110-190-0001, 6110-196-0001, 6110-232-0001, 6110-234-0001, 6110-244-0001, and 6110-246-0001 of Section 2.00 of the Budget Act of 2006, and those items identified in subdivision (b) of Section 12.40 of the Budget Act of 2006, shall be 5.92 percent. All funds appropriated in the items identified in this section are in lieu of the amounts that would otherwise be appropriated pursuant to any other law.

SEC. 42. (a) The amount of three hundred fifty million dollars ($350,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 2006–07 fiscal year for the purposes of Section 42238.48 of the Education Code, to be allocated to school districts on a prorated basis.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2006–07 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2006–07 fiscal year.

SEC. 43. (a) Two billion three hundred five million six hundred ninety-five thousand dollars ($2,305,695,000) is hereby appropriated from the General Funds for the 2005–06 fiscal year in accordance with the following schedule:

(1) Six hundred fifty million sixty-two thousand dollars ($650,062,000) to the Controller for allocation as appropriate for the reimbursement of state-mandated local cost claims submitted by local education agencies for the 1995–96 to 2005–06 fiscal years, inclusive.

(A) The Controller shall use the funds described in this paragraph to pay claims submitted by school districts and county offices of education pursuant to Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code for the 1995–96 to 2005–06 fiscal years, inclusive. The Controller shall pay the claims according to the following order of priority:

(i) First, the oldest claims no longer subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest.

(ii) Second, claims still subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest. The Controller may adjust the amounts paid for these claims on the basis of the final audits. Any repayment resulting from an audit may be counted towards future claims submitted by the local educational agency.

(B) No payments shall be made for any claims for the Standardized Testing and Reporting (STAR) or National Norm-Referenced Achievement Test programs, Schoolsite Councils, Brown Act and Open Meetings Act, School Bus Safety II, Grand Jury Proceedings, or the removal of chemicals.

(2) Four hundred million one hundred twenty-five thousand dollars ($400,125,000) to the Superintendent of Public Instruction for allocation to school districts according to the following provisions:

(A) The funds appropriated pursuant to this paragraph shall be allocated to school districts on the basis of an equal amount per pupil enrolled in the district in the 2006–07 fiscal year, including pupils enrolled in adult education programs and pupils enrolled in regional occupational centers and programs based on the fall California Basic Educational Data System (CBEDS) enrollment data, except that pupil enrollment in adult education programs and regional occupational centers and programs shall be determined based on their calculated average daily attendance (ADA) for base funding allocations. The ADA for this purpose shall be considered final as of the second principal apportionment for fiscal year 2006–07. The governing board of each school district shall allocate the funds on an equal per-pupil basis to the schools within its jurisdiction for expenditure pursuant to this section. The Superintendent of Public Instruction shall make an initial apportionment of up to 75 percent of the funds on the basis of the enrollment in the 2005–06 fiscal year and shall make a final apportionment of the remaining funds in a manner that ensures that the total funds apportioned pursuant to this

section are distributed on the basis of 2006–07 enrollment or ADA, as applicable.

(B) For the purposes of this paragraph, "school" shall include locally funded charter schools that have pupils who are currently enrolled and that have a current county-district-school (CDS) code, as maintained by the Superintendent of Public Instruction as of July 1, 2006. The use of the funds allocated to charter schools pursuant to this section shall further the program specified in the school's charter and shall not be allocated to parents, pupils, or staff of the charter school.

(C) The use of funds allocated pursuant to this paragraph for schools under the jurisdiction of a school district shall be proposed by each school's schoolsite council of each school, or, if the school does not have a schoolsite council pursuant to Section 52852 of the Education Code, by schoolwide advisory groups or school support groups. Funds shall be allocated to all school sites including adult education schools and regional occupational centers. For adult schools, the school shall develop an adult school advisory committee which shall consist of the school principal or director, teachers representing a variety of academic disciplines, adult education students, and community business leaders.

(D) The funds apportioned pursuant to this paragraph may be expended for any one-time educational purpose including, but not limited to, instructional materials, classroom and laboratory supplies and materials, school and classroom library materials, educational technology, deferred maintenance, one-time expenditures designed to close the achievement gap, or professional development. Before funds allocated pursuant this section may be encumbered or expended, the governing board of the school district shall approve the proposed use. If the governing board of a school district does not approve the use proposed pursuant to this paragraph, no expenditures of the specified funds may be made and the governing board of the school district shall inform the schoolsite council, schoolwide advisory group, or school support group, as applicable, of the reasons why the proposal was disapproved. If the schoolsite council, schoolwide advisory group, or school support group, as applicable, and the governing board of the school district are unable to agree on the use of the funds by May 1, 2007, the dispute shall be immediately submitted to the county board of education. The county board of education shall resolve the dispute within 30 days of submission. The decision of the county board of education shall be final.

(E) The use of funds allocated pursuant to this paragraph for schools under the jurisdiction of a county office of education shall be proposed by each school's schoolwide advisory group or school support group. The proposals shall be approved by the county board of education prior to expenditure of the funds allocated pursuant to paragraph (1).

(F) For purposes of this paragraph, "school district" means a school district, county office of education, state special school, or direct-funded charter school, as described in paragraph (1) of subdivision (a) of Section 47651 of the Education Code.

(G) The funds apportioned under this paragraph shall be allocated with a minimum of five thousand dollars ($5,000) for schoolsites of 25 or fewer pupils and ten thousand dollars ($10,000) for schoolsites of more than 25 pupils.

(3) One hundred thirty-three million three hundred seventy-five thousand dollars ($133,375,000) to the Superintendent for allocation to school districts according to the following provisions:

(A) The funds appropriated pursuant to this paragraph shall be apportioned to school districts on the basis of an equal amount per pupil enrolled in the district in the 2006–07 fiscal year, including pupils enrolled in adult education programs and pupils enrolled in regional occupational centers and programs based on the fall California Basic Educational Data System (CBEDS) enrollment data, except that pupil enrollment in adult education programs and regional occupational centers and programs shall be determined based on their calculated average daily attendance (ADA) for base funding allocations. The ADA for this purpose shall be considered final as of the second principal apportionment for the 2006–07 fiscal year. The Superintendent of Public Instruction shall make an initial apportionment of up to 75 percent of the funds on the basis of the enrollment in the 2005–06 fiscal year and shall make a final apportionment of the remaining funds in a manner that assures that the total funds apportioned pursuant to this section are distributed on the basis of 2006–07 enrollment, or ADA, as applicable.

(B) The funds apportioned pursuant to this paragraph may be expended for instructional materials, classroom and laboratory supplies and materials, school and classroom library materials, educational technology, deferred maintenance, professional development, home-to-school transportation, one-time expenditures designed to close the achievement gap, or outstanding one-time fiscal obligations of school districts.

(C) It is the intent of the Legislature that to the extent a school district allocates funds appropriated pursuant to this paragraph for the benefit of school sites, the district shall expend funds for the benefit of charter schools, including direct-funded charter schools, on an equitable basis.

(D) The funds apportioned under this paragraph shall be allocated with a minimum of ten thousand dollars ($10,000) per school district.

(4) One hundred million dollars ($100,000,000) from the General Fund on a one-time basis for allocation by the Superintendent of Public Instruction to school districts, charter schools, and county offices of education on the basis of enrollment in the 2005–06 fiscal year according

to the fall CBEDS enrollment data. That allocation shall be used solely for any of the following:

(A) Instructional materials.

(B) School and classroom library materials.

(C) One-time educational technology costs, as provided in this section.

(5) Eleven million five hundred thirty-three thousand dollars ($11,533,000) on a one-time basis to be available for expenditure by June 30, 2009, as follows:

(A) Nine million five hundred thousand dollars ($9,500,000) for allocation to school districts, charter schools, and county office of education to provide funds to local educational agencies that have not previously received funding pursuant to the California School Information Services. These funds may be combined with the funds appropriated for this purpose in Item 6110-101-0349 of the annual Budget Act for the 2006–07 fiscal year. Funds shall be allocated pursuant to Section 49084 of the Education Code for activities consistent with an implementation plan developed by the California School Information Services, to be jointly approved by the Department of Finance, the Office of the Secretary for Education, and the State Department of Education, in consultation with the Legislative Analyst's Office.

(B) One million five hundred thousand dollars ($1,500,000) is available to the State Department of Education for transfer of five hundred thousand dollars ($500,000) per year over three fiscal years to the California School Information Services to be used to support staffing and for administrative costs associated with an increased workload pursuant to subparagraph (A).

(C) Five hundred thirty-three thousand dollars ($533,000) is available to the State Department of Education to the California School Information Services for use to purchase one-time equipment, hardware, and software consistent with an implementation plan developed by the California School Information Services, to be jointly approved by the Department of Finance, the Office of the Secretary for Education, and the State Department of Education, in consultation with the Legislative Analyst's Office.

(6) Ten million dollars ($10,000,000) on a one-time basis for transfer to Section A of the State School Fund for allocation by the Superintendent of Public Instruction to school districts, charter schools, and county offices of education for the following purposes:

(A) School districts with outstanding long-term fiscal obligations concerning retired employee nonpension benefits may apply for funding upon completing a plan for meeting those obligations. As a requirement of receipt of funding, districts must submit these plans to the county superintendent of education as part of the budget review process.

(B) County superintendents of education may apply for funding for consideration of plans submitted pursuant to this section during the course of reviewing the budget of a school district.

A local educational agency may not receive an amount greater than fifteen thousand dollars ($15,000) for activities related to this paragraph.

(7) Ten million dollars ($10,000,000) on a one-time basis to the Superintendent of Public Instruction for the purpose of providing Healthy Start Program grants to school districts or charter schools that have not previously received a Healthy Start grant. The grant shall be provided on a competitive basis and shall provide full funding for both collaborative planning and operational grants in the 2006–07 fiscal year. Collaborative planning grants and operational grants may be expended over a seven-year period.

(8) Three million dollars ($3,000,000) to the State Department of Education for allocation to school districts, charter schools, and county offices of education to fund grants during the 2006–07 school year for startup school breakfast and summer food service programs under Section 49550.3 of the Education Code.

(9) Fifteen million dollars ($15,000,000) to the Superintendent of Public Instruction for allocation to school districts and charter schools on a one-time basis for purposes of parental involvement activities pursuant to Article 2 (commencing with Section 51120) of Chapter 1.5 of Part 28 of the Education Code.

(10) Thirty million dollars ($30,000,000) on a one-time basis to provide supplemental instructional materials specifically for English 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. The funds shall be used to purchase supplemental materials that are designed to help English 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.

(A) Local educational agencies shall be eligible for apportionment funding of up to twenty-five dollars ($25) per pupil, based on the most recently certified language census number of English 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 educational agency certifies it will purchase materials for pursuant to subparagraph (D). Local educational agencies may expend

no more than thirty dollars ($30) per pupil from these funds for these materials. Local educational agencies shall return to the state any funds allocated under this subparagraph that are not expended for purchase of materials pursuant to this provision.

(B) The State Department of Education shall use the existing correlation matrices pursuant to Item 6110-189-0001 of Section 2.00 of Chapter 208 of the Statutes of 2004 to determine if the instructional materials correlate to the English-language arts and English language development standards adopted by the State Board of Education.

(C) Prior to submission of materials to the department for review to ensure 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 educational agency can determine the extent to which each item, if purchased separately, or set of instructional materials for English 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 subparagraph (B).

(D) As a condition of receipt of funds, local educational agencies that elect to participate shall do one, or both, of the following:

(i) No later than March 30, 2007, submit a request for review, 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 may be purchased.

(ii) Identify materials from the existing list of materials approved by the State Board of Education specifying the information described in clause (i).

(E) After a local educational agency notifies the State Department of Education of its request for review of 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 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 the intent of school districts to purchase provided under subparagraph (D). 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 verification of the department, in accordance with public notification requirements.

(11) Nine million dollars ($9,000,000) to the Superintendent of Public Instruction for allocation to charter schools for the Charter School Facility Grant Program pursuant to Section 47614.5 of the Education Code.

(12) Five million dollars ($5,000,000) to the State Department of Mental Health for the purpose of funding the full costs of the operational grants for a new cohort of grants over a multiyear period for the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program pursuant to Chapter 2 (commencing with Section 4380) of Part 4 of Division 4 of the Welfare and Institutions Code.

(13) Twenty million dollars ($20,000,000) to the Superintendent of Public Instruction for local assistance costs of a multiyear research pilot project to identify best practices for improving the academic achievement and English language development of English learners pursuant to legislation enacted during the 2005–06 Regular Session of the Legislature.

(14) Forty million dollars ($40,000,000) for transfer to Section A of the State School Fund for allocation to school districts, regional occupational centers and programs, adult education providers, charter schools and county offices of education that offer career technical education programs for the purchase of equipment and supplies, and minor facility reconfigurations for career technical education courses. Funds appropriated in this paragraph shall be allocated in accordance with, and are subject to, all of the following conditions:

(A) Funds shall be allocated on the basis of an equal amount per student enrolled in career technical education courses based on 2005–06 enrollment for grades 7 to 12, inclusive, as determined by the Superintendent of Public Instruction. In no event shall an eligible local educational agency receive less than three thousand two hundred and fifty dollars ($3,250), provided all other conditions of this paragraph are satisfied.

(B) This allocation shall be used solely for purchases of equipment and supplies for career technical education courses and any necessary minor facility configurations or improvements to remove old equipment or to utilize the new equipment.

(C) Prior to the allocation of funds to any local educational agency, the receiving agency shall do all of the following:

(i) Provide to the State Department of Education an expenditure plan for approval by the department that has been developed in consultation with the career technical education advisory committee established pursuant to Section 8070 of the Education Code.

(ii) Agree to notify the career technical education advisory committee prior to disposing of any existing equipment or purchasing any new equipment used for career technical education.

(iii) Provide any other information determined by the Superintendent of Public Instruction deemed necessary to ensure this funding is effectively utilized to sustain and expand attendance in high quality career technical education programs.

(D) Of the funds appropriated in this paragraph, two million five hundred thousand dollars ($2,500,000) shall be used for capacity building incentive grants for grades 7 to 12, inclusive, to enhance existing, or establish new, health-related career pathway programs in grades 7 to 12, inclusive. Funds shall be used for standards-based curriculum development, development of a sequence of courses, and materials and equipment. The State Department of Education shall report to the Legislature and the Governor on the use of the funds described in this subparagraph on or before January 1, 2008.

(15) Four million dollars ($4,000,000) to the Superintendent of Public Instruction as local assistance funds for support of the K-12 High-Speed Network.

(16) Five hundred million dollars ($500,000,000) for transfer to Section A of the State School Fund for allocation by the Superintendent of Public Instruction to school districts, charter schools, and county offices of education on the basis of an equal amount per unit of average daily attendance, as defined in subdivision (b) of Section 42235.5 of the Education Code, and including average daily attendance used to compute funding for small school districts pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code, reported for the second principal apportionment for the 2005–06 fiscal year pursuant to Section 41601 of the Education Code. However, a public school shall not receive less than two thousand five hundred dollars ($2,500). That allocation shall be used solely for one or both of the following:

(A) Art and music supplies and equipment.

(B) Physical education supplies and equipment.

(17) Fifty million dollars ($50,000,000) for transfer to the Child Care Facilities Revolving Fund to address facilities needs for the expansion of the State Preschool Program, pursuant to legislation enacted during the 2005–06 Regular Session of the Legislature. Funding shall be available for the renovation, repair, or improvement of an existing building and for the purchase of new relocatable child care facilities, in accordance with Education Code Section 8278.3.

(18) Five million five hundred thousand dollars ($5,500,000) to the Superintendent of Public Instruction for allocation to local educational

agencies for the purpose of funding the purchase of state-approved individual intervention materials for students who have failed the California High School Exit Examination.

(A) Local educational agencies shall be eligible for apportionment funding of twenty dollars ($20) per pupil based on the number of pupils in grades 11 through 12, inclusive, who have failed to pass one or both portions of the California High School Exit Examination. Funds shall be used to purchase any materials recommended by the State Department of Education and approved by the State Board of Education for these purposes.

(B) Individual intervention materials approved pursuant to this section shall meet the following criteria:

(i) Assist students in mastering standards necessary to successfully pass the California High School Exit Examination.

(ii) Include a computer-based component that adapts to each student's specific remediation needs.

(iii) Include appropriate professional development support for teachers.

(C) The State Department of Education shall issue a request for proposals to vendors to develop, produce, and make available workbooks meeting the specifications described in subparagraph (B) at a cost no greater than twenty dollars ($20) per workbook. Based on this request for proposal process, the department shall recommend a vendor or vendors to the State Board of Education for approval.

(19) The sum of one million eight hundred thousand dollars ($1,800,000) to the Superintendent of Public Instruction for implementation of the Mathematics Teacher Partnership Pilot Program.

(A) The Superintendent of Public Instruction shall select, on a competitive basis, a county office of education or consortia of county offices of education to provide one-time funding for the establishment of the Mathematics Teacher Pilot Program. The funding shall be allocated no later than August 1, 2006, or 30 days following enactment of the Budget Act of 2006, whichever date is later, and shall be available for expenditure to the successful bidder for the 2006–07 and 2007–08 fiscal years.

(B) The successful bidder shall use the funds provided to implement a regional Math Teacher Pilot Project in at least three counties to accomplish the following objectives:

(i) Increase the number of qualified secondary-level math teachers and increase the likelihood that such teachers will remain in the teaching profession. These activities shall build upon current state efforts to increase the number of new secondary-level math teachers.

(ii) Improve and raise the capacity of secondary-level teachers who teach mathematics.

(iii) Provide professional development to teachers aimed at improving their ability to convey rigorous content and motivate students toward careers in teaching mathematics.

(iv) Provide professional development for teachers in how to assist students who are struggling to meet proficiencies required to pass the mathematics portion of the California High School Exit Examination.

(C) (i) The county office of education receiving the funding shall monitor and report on the results of the pilot programs to identify models for replication in other service areas throughout the state.

(ii) The county office of education receiving the funding shall submit annual progress reports to the Legislature, the Department of Finance, the Superintendent of Public Instruction, the Office of the Secretary of Education, the State Board of Education, the Governor, and the Legislative Analyst's Office. These reports shall include, but not be limited to, information on outcomes related to the number, quality and capacity of secondary-level math teachers in pilot schools; statistics regarding unmet demand for secondary-level math teachers in pilot schools; types of incentives and support provided to teachers; passage rates of students on the mathematics portion of the California High School Exit Examination; and lessons learned about effective or ineffective activities and strategies. These reports shall be submitted on or before August 1, 2007, and August 1, 2008.

(20) Fifty million dollars ($50,000,000) to the Superintendent of Public Instruction for teacher recruitment and retention for allocation to the governing board of a school district that has a school or schools that are ranked in deciles 1 to 3, inclusive, of the 2005 base Academic Performance Index, as defined in Section 52052 of the Education Code, for one or more such qualifying schools in accordance with the following:

(A) As a condition of receipt of funds, the district governing board shall adopt a plan for use of the funds within the qualifying schools. The plan shall be discussed and adopted at a regularly scheduled governing board meeting.

(B) Each applicant district shall receive fifty dollars ($50) per pupil based upon the number of pupils in qualifying schools within the district.

(C) The funds shall be used for the purposes of improving the educational culture and environment at those schools, which may include, but are not limited to, the following specific purposes:

(i) Assuring a safe, clean school environment for teaching and learning.

(ii) Providing support services for students, and teachers.

(iii) Activities, including differential compensation, focused on the recruitment and retention at those schools of teachers who meet the

definition of a highly qualified teacher under the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(iv) Activities, including differential compensation, focused on the recruitment and retention at those schools of highly skilled principals.

(v) Small group instruction.

(vi) Providing time for teachers and principals to collaborate regarding improving academic outcomes for students.

(D) To the extent that funding is insufficient to fund all eligible applicants, the amount provided shall be prorated to conform to available funds.

(21) Ninety-four million one hundred forty-four thousand dollars ($94,144,000) for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time block grants to community college districts for physical plant and instructional support, for the 2005–06 fiscal year subject to the following provisions:

(A) Forty-seven million seventy-two thousand dollars ($47,072,000) shall be available for scheduled maintenance and special repairs of facilities and forty-seven million seventy-two thousand dollars ($47,072,000) shall be available for the replacement of instructional equipment and library materials.

(B) Community college districts shall expend the allocations made pursuant to this paragraph for the purpose of one-time expenditures, including high priority instructional equipment and library material replacement; technology infrastructure; scheduled maintenance and special repairs; hazardous substances abatement, cleanup and repairs; and architectural barrier removal and seismic retrofit projects limited to $400,000.

(C) The Chancellor of the Community Colleges shall allocate the amount appropriated for the one-time block grants in subparagraph (A) to community college districts on an equal amount per actual full-time equivalent student attendance reported for the 2005–06 fiscal year, except that each community college district shall be allocated an amount not less than one hundred thousand dollars ($100,000), and the equal amount per unit of full-time attendance shall be computed accordingly.

(D) These funds shall supplement and not supplant existing expenditures and may not be counted as the district match for physical plant projects and instructional material purchases funded in Item 6870-101-0001 of Section 2.00 of the Budget Act of 2006.

(22) Seventy-seven million seven hundred thousand dollars ($77,700,000) for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time general purpose block grants to community college districts, for the 2005–06 fiscal year. The Chancellor of the Community Colleges shall allocate the amount

appropriated for the one-time block grants in this paragraph to community college districts in an equal amount per actual full-time equivalent student attendance reported for the 2005–06 fiscal year, except that each community college district shall be allocated an amount not less than one hundred thousand dollars ($100,000), and the equal amount per unit of full-time attendance shall be computed accordingly. Community college districts may expend the allocations made pursuant to this section for the purpose of any appropriate one-time expenditure. However, these funds may not be counted as the required local contribution for physical plant projects or instructional material purchases funded in Item 6870-101-0001 of Section 2.00 of the Budget Act of 2006.

(23) Forty million dollars ($40,000,000) for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time grants to community college districts, for career technical education equipment, materials and minor facility remodeling. The Chancellor of the Community Colleges shall allocate the amount appropriated for the one-time grants in this paragraph to community college districts on an equal amount per actual full-time equivalent student attendance reported for the 2005–06 fiscal year, except that each community college district shall be allocated an amount not less than one hundred thousand dollars ($100,000), and the equal amount per unit of full-time attendance shall be computed accordingly. Community college districts shall expend the allocations made pursuant to this section for the purpose of one-time expenditures for career technical education equipment, materials, and facility reconfigurations or improvements necessary to remove old or install new equipment. Any equipment that has been replaced with funds provided in this subdivision shall be made available to high schools in the region served by the district to the extent it may benefit career technical education in the high schools.

(24) Nineteen million seven hundred ten thousand dollars ($19,710,000) for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time grants to community college districts, for purposes specified in legislation enacted during the 2005–06 Regular Session.

(25) Fifteen million dollars ($15,000,000) to the Controller for allocation to community college districts for the reimbursement of state-mandated local cost claims submitted by community college districts for the 1995–96 to 2005–06 fiscal years, inclusive. The Controller shall use the funds appropriated in this paragraph to pay for claims submitted by community college districts for the 1995–96 to 2005–06 fiscal years, inclusive. The Controller shall pay claims according to the following order of priority:

(A) First, the oldest claims no longer subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest.

(B) Second, claims still subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest. The Controller may adjust the amounts paid for these claims on the basis of the final audits. Any repayment resulting from an audit may be counted towards future claims submitted by the local educational agency.

(26) Five hundred thousand dollars ($500,000) from the General Fund for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time grants to community college districts, for the following purposes:

(A) The establishment or expansion of nursing student clinical placement registries in all regions of the state for the benefit of nursing students and programs serving community college students and students from the University of California and the California State University.

(B) To establish an on-line community college nursing faculty registry.

(C) It is the intent of the Legislature that the one-time projects funded pursuant to this paragraph will be self-sustaining through annual user fees from participating colleges and universities.

(27) One million four hundred forty-six thousand dollars ($1,446,000) from the General Fund for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time grants to community college districts for sites to complete connection to the California Research and Education Network. To the extent that there are insufficient moneys to fund all applications, the funding shall be allocated on a first come first serve basis. These funds shall only be given to districts with college sites that do not currently have the ability to connect to the California Research and Education Network.

(28) Five hundred thousand dollars ($500,000) for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time funding to the community colleges for research and statewide leadership activities related to the implementation of a community college system strategic plan adopted by the Board of Governors in January 2006. The funds shall be used for reimbursement o expenditures incurred by community college representatives assisting in the shared governance implementation of the strategic plan. At least ninety percent of the appropriated funds shall be expended for short-term applied research necessary to guide the implementation of strategic initiatives identified in the plan, including removal of barriers for student access and success, innovative programs and outreach, improved assessment and placement, improved articulation with elementary and secondary schools and four-year institutions, teaching and learning

effectiveness, innovative practices in workforce education and accountability research for the community colleges. No more than ten percent of the appropriated funds shall be available for reimbursement of release time and transportation expenses of community college representatives assisting in the shared governance advice and implementation of the strategic plan.

(29) Seven hundred thousand dollars ($700,000) for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time funding to the community colleges to develop and implement an Electronic Transcript Exchange.

(30) Two million five hundred thousand dollars ($2,500,000) for transfer by the Controller to Section B of the State School Fund to fund a pilot grant program designed to recruit and retain existing full-time nursing faculty. Funds shall be available for three years, through the 2008–09 fiscal year. The Board of Governors shall adopt criteria to allocate these funds to districts on a competitive basis to maximize their effectiveness. The Chancellor shall submit the grant criteria to the Department of Finance and the Legislature for review not less than 30 days prior to releasing a request for proposals. On or before January 10, 2009, the Chancellor shall submit to the Legislature and the Department of Finance a report listing the grant recipients, describing how the grant funds were used, and assessing the effectiveness of the grant funds in retaining and recruiting nursing faculty. It is the intent of the Legislature to use the information contained in the report to help decide whether to extend or expand the pilot program beyond the 2008–09 fiscal year.

(31) Five million dollars ($5,000,000) for transfer by the Controller to Section B of the State School Fund for one-time expenditure by the community colleges in support of faculty and staff professional development programs established by Article 5 Chapter 1 of Part 51 of the Education Code, beginning with Section 87150 of the Education Code. The Chancellor shall allocate funds to each community college district that complies with the requirements of Section 87151 of the Education Code on an equal basis per full-time equivalent student.

(32) One hundred thousand dollars ($100,000) for transfer by the Controller to Section B of the State School Fund for allocation to the Amador County Office of Education for distance education equipment for purposes of broadcasting community college courses in Amador County.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, and "General Fund revenues appropriated

for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2005–06 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2005–06 fiscal year.

SEC. 44. (a) Two hundred eighty-three million one hundred eighty-nine thousand dollars ($283,189,000) is hereby appropriated from the General Fund for transfer to the Controller to pay for prior year claims, including interest, for reimbursement of state-mandated costs.

(1) The Controller shall use the funds appropriated in this section to pay school districts, county offices of education, and community college districts for claims submitted by any of those local educational agencies for the 1995–96 to 2005–06 fiscal years, inclusive. The Controller shall pay claims according to the following order of priority:

(A) First, the oldest claims no longer subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest.

(B) Second, claims still subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest. The Controller may adjust the amounts paid for these claims on the basis of the final audits. Any repayment resulting from an audit may be counted towards future claims submitted by the local educational agency.

(2) No payments shall be made for any claims for the Standardized Testing and Reporting (STAR) or National Norm-Referenced Achievement Test programs, Schoolsite Councils, Brown Act and Open Meetings Act, School Bus Safety II, Grand Jury Proceedings, or the removal of chemicals.

(3) The Controller shall provide reimbursement of claims and interest in accordance with the following schedule:

(A) The sum of two hundred fifty-eight million one hundred eighty-nine thousand dollars ($258,189,000) for reimbursement of claims filed by school districts and county offices of education.

(B) The sum of twenty-five million dollars ($25,000,000) for reimbursement of claims filed by community college districts.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, seventy-six million three hundred one thousand dollars ($76,301,000) of the appropriation made by subdivision (a) shall be deemed to be "General Fund" revenues appropriated to school districts, as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to

Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

(c) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, one hundred sixty-five million nine hundred forty-six thousand dollars ($165,946,000) of the appropriation made by subdivision (a) shall be deemed to be "General Fund" revenues appropriated to school districts, as defined in subdivision (c) of Section 41202 of the Education Code, for the 1996–97 fiscal year, included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1996–97 fiscal year.

(d) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, fifteen million nine hundred forty-two thousand dollars ($15,942,000), of the appropriation made by subdivision (a) shall be deemed to be "General Fund" revenues appropriated to school districts, as defined in subdivision (c) of Section 41202 of the Education Code, and twenty-five million dollars ($25,000,000) of the appropriation made by subdivision (a) shall be deemed to be "General Fund" revenues appropriated to community college districts as defined in subdivision (d) of Section 41202 of the Education Code, for the 2002–03 fiscal year and included within the "total allocations to school districts and community college from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2002–03 fiscal year.

SEC. 45. 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 2006 at the earliest time possible, it is necessary that this act take effect immediately.

CHAPTER 80

An act to amend Section 18080.5 of, and to add Section 18035.26 to, the Health and Safety and Code, relating to manufactured housing.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 18035.26 is added to the Health and Safety Code, to read:

18035.26. (a) Notwithstanding any other provision of law, the requirements of this section apply only to the sale of a new or used manufactured home or multiunit manufactured housing or used mobilehome sold by a dealer and to be installed by the buyer on a foundation system pursuant to subdivision (a) of Section 18551.

(b) The sale shall be deemed complete at the close of escrow. Escrow shall be deemed closed when all of the following have been completed:

(1) The following document is executed:

Declaration of Delivery Sale

The undersigned purchaser hereby declares that he/she is agreeing to a delivery sale wherein he/she intends to actually and physically install the subject home described below, or accept responsibility for engaging the services of a licensed contractor to perform that installation. Additionally, the purchaser hereby declares that he/she understands that most manufacturers' warranties do not cover defects caused by improper site preparation or installation. The purchaser takes full responsibility for the proper storage, including blocking of the home and protection from the elements, prior to the completion of the installation.

It is strongly recommended that, before entering into this agreement, the purchaser has ensured that the home described below will be installed pursuant to subdivision (a) of Section 18551 of the Health and Safety Code (see reverse side) and the manufacturer's installation instructions. Additionally, the purchaser should make certain that he/she can meet all permit and fee requirements, including school development fees, most of which may be financed, for the installation of the subject home.

Warranty Expiration

Notwithstanding Section 1797 of the Civil Code, in order to provide reasonable time for the installation of your home, the manufacturer's warranty, when applicable, will expire one year after either the issuance of a certificate of occupancy or 120 days from the close of escrow, whichever occurs first.

Name of Escrow Company: _____; Escrow Number: ____

Manufacturer's Name: _____; Serial Number: _____

Dealer's Name: _____; Address where purchaser will accept delivery: _____; Address where purchaser intends to install home: _____

(NOTE: An original copy of this document must be deposited with the above named escrow agent as a condition precedent to the preparation of escrow instructions. Upon close of escrow, the escrow agency shall

submit a copy of the original document to the department along with documents required to report the sale; the original document shall be retained by the escrow agent. Additionally, a copy of the original document shall be sent to the manufacturer.)

WARNING: This is an important document. Do not sign unless you have read and understood the above declaration.

Purchaser's Printed Name: _____Purchaser's Signature: _____ Date: _____

Purchaser's Printed Name: _____Purchaser's Signature: _____ Date: _____

(Section 18551 of the Health and Safety Code shall be reprinted on the reverse side of this document.)

(2) All funds in the escrow account, other than escrow fees, amounts for accessories not yet delivered, and any other amounts mutually agreed to by the dealer and buyer are disbursed.

(3) The buyer takes delivery of the manufactured home, mobilehome, or multiunit manufactured housing. For the purpose of this section, taking delivery occurs upon the transfer of the home to the buyer at a location mutually agreed upon and as specified in the purchase agreement and the escrow instructions.

(c) The warranty period pursuant to Chapter 3 (commencing with Section 1797) of the Civil Code shall expire one year after either 120 days after the close of escrow or upon the issuance of the certificate of occupancy, whichever occurs first.

(d) All sales subject to this section shall meet the escrow requirements of Section 18035.2 and the reporting requirements of Section 18080.5. An escrow agent shall not create an escrow instruction wherein a purchaser accepts responsibility for the installation of a manufactured home unless and until the escrow agent is in receipt of the declaration specified in subdivision (a). An escrow instruction created before the receipt of the declaration is null and void and unenforceable.

(e) The report of sale and any related required documents shall be filed with the department within 10 calendar days of the close of escrow. The department shall designate its record as "pending installation" for the unit until the certificate of occupancy is issued and the recorded HCD 433A and applicable fees are received from the enforcement agency. Only at this time shall the record be amended to designate the foundation type to be a permanent foundation pursuant to subdivision (a) of Section 18551 and the department's record cancelled.

SEC. 2 Section 18080.5 of the Health and Safety Code is amended to read:

18080.5. (a) A numbered report of sale, lease, or rental form issued by the department shall be submitted each time the following transactions occur by or through a dealer:

(1) Whenever a manufactured home, mobilehome, or commercial coach previously registered pursuant to this part is sold, leased with an option to buy, or otherwise transferred.

(2) Whenever a manufactured home, mobilehome, or commercial coach not previously registered in this state is sold, rented, leased, leased with an option to buy, or otherwise transferred.

(b) The numbered report of sale, lease, or rental forms shall be used and distributed in accordance with the following terms and conditions:

(1) A copy of the form shall be delivered to the purchaser.

(2) All fees and penalties due for the transaction that were required to be reported with the report of sale, lease, or rental form shall be paid to the department within 10 calendar days from the date the transaction is completed, as specified by subdivision (e). Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the consumer for those penalties.

(3) Notice of the registration or transfer of a manufactured home or mobilehome shall be reported pursuant to subdivision (d).

(4) The original report of sale, lease, or rental form, together with all required documents to report the transaction or make application to register or transfer a manufactured home, mobilehome, or commercial coach, shall be forwarded to the department. Any application shall be submitted within 10 calendar days from the date the transaction was required to be reported, as defined by subdivision (e).

(c) A manufactured home, mobilehome, or commercial coach displaying a copy of the report of sale, lease, or rental may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(d) In addition to the other requirements of this section, every dealer upon transferring by sale, lease, or otherwise any manufactured home or mobilehome shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the manufactured home or mobilehome is to be installed. The written notice shall be upon forms provided by the department containing any information that the department may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(e) Except for transactions subject to Section 18035.26, for purposes of this section, a transaction by or through a dealer shall be deemed

completed and consummated and any fees and the required report of sale, lease, or rental is due when any of the following occurs:

(1) The purchaser of any commercial coach has signed a purchase contract or security agreement or paid any purchase price, the lessee of a new commercial coach has signed a lease agreement or lease with an option to buy or paid any purchase price, or the lessee of a used commercial coach has either signed a lease with an option to buy or paid any purchase price, and the purchaser or lessee has taken physical possession or delivery of the commercial coach.

(2) For sales subject to Section 18035, when all the amounts other than escrow fees and amounts for uninstalled or undelivered accessories are disbursed from the escrow account.

(3) For sales subject to Section 18035.2, when the installation is complete and a certificate of occupancy is issued.

CHAPTER 81

An act to amend Section 101.10 of the Streets and Highways Code, relating to highways.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 101.10 of the Streets and Highways Code is amended to read:

101.10. (a) (1) The department shall design, construct, place, and maintain, or cause to be designed, constructed, placed, and maintained, along state highways, signs that read as follows: "Please Don't Drink and Drive," followed by: "In Memory of (victim's name)." These signs shall be placed upon the state highways in accordance with this section, placement guidelines adopted by the department, and any applicable federal limitations or conditions on highway signage, including location and spacing. Signs may memorialize more than one victim. "Victim" for purposes of this section means a person who was killed in a vehicular accident, but does not include a party described in paragraph (2) of subdivision (c).

(2) The department shall adopt program guidelines for the application for and placement of signs authorized by this section, including, but not limited to, the sign application and qualification process, the procedure

for the dedication of signs, and procedures for the replacement or restoration of any signs that are damaged or stolen.

(b) If the placement at the location of a vehicular accident is safe and practical and the conditions of subdivisions (c) and (d) are met, the department shall place a sign described in subdivision (a) in close proximity to the location where the vehicular accident occurred.

(c) (1) A party to that accident was convicted of any of the following:

(A) Murder of the second degree under Section 187, and the violation was a direct result of driving a vehicle while in violation of Section 23152 or 23153 of the Vehicle Code.

(B) Gross vehicular manslaughter while intoxicated under subdivision (a) of Section 191.5 of the Penal Code.

(C) Vehicular manslaughter under paragraph (3) of subdivision (c) of Section 192.

(2) A party to that accident operated a vehicle involved in the vehicular accident in violation of Section 23152 or 23153 of the Vehicle Code, but died in the accident or was not prosecuted because he or she is found mentally incompetent pursuant to Section 1367 of the Penal Code.

(d) (1) Upon the request of an immediate family member of the deceased victim involved in an accident occurring on and after January 1, 1991, and described in subdivision (b), the department shall place a sign in accordance with this section. A person who is not a member of the immediate family may also submit a request to have a sign placed under this section if that person also submits the written consent of an immediate family member. The department shall charge the requesting party a fee to cover the department's cost in designing, constructing, placing, and maintaining that sign, and the department's costs in administering this section. The sign shall be posted for seven years from the date of initial placement, or until the date the department determines that the condition of the sign has deteriorated to the point that it is no longer serviceable, whichever date is first.

(2) "Immediate family" means spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather.

(3) If there is any opposition to the placement of the memorial sign by a member of the immediate family, no sign shall be placed pursuant to this section.

CHAPTER 82

An act to add Section 6250.3 to the Family Code, relating to protective orders.

[Approved by Governor July 20, 2006. Filed with
Secretary of State July 20, 2006.]

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

SECTION 1. Section 6250.3 is added to the Family Code, to read:

6250.3. An emergency protective order is valid only if it is issued by a judicial officer after making the findings required by Section 6251 and pursuant to a specific request by a law enforcement officer.

CHAPTER 83

An act to amend Section 77761 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 20, 2006. Filed with
Secretary of State July 20, 2006.]

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

SECTION 1. Section 77761 of the Food and Agricultural Code is amended to read:

77761. The term of office of all members and alternate members of the commission, except any ex officio member, shall be three years from the date of their election and until qualified successors are elected.

CHAPTER 84

An act to amend Section 15642 of the Probate Code, relating to trustees.

[Approved by Governor July 20, 2006. Filed with
Secretary of State July 20, 2006.]

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

SECTION 1. Section 15642 of the Probate Code is amended to read:

15642. (a) A trustee may be removed in accordance with the trust instrument, by the court on its own motion, or on petition of a settlor, cotrustee, or beneficiary under Section 17200.

(b) The grounds for removal of a trustee by the court include the following:

(1) Where the trustee has committed a breach of the trust.

(2) Where the trustee is insolvent or otherwise unfit to administer the trust.

(3) Where hostility or lack of cooperation among cotrustees impairs the administration of the trust.

(4) Where the trustee fails or declines to act.

(5) Where the trustee's compensation is excessive under the circumstances.

(6) Where the sole trustee is a person described in subdivision (a) of Section 21350, whether or not the person is the transferee of a donative transfer by the transferor, unless, based upon any evidence of the intent of the settlor and all other facts and circumstances, which shall be made known to the court, the court finds that it is consistent with the settlor's intent that the trustee continue to serve and that this intent was not the product of fraud, menace, duress, or undue influence. Any waiver by the settlor of this provision is against public policy and shall be void. This paragraph shall not apply to instruments that became irrevocable on or before January 1, 1994. This paragraph shall not apply if any of the following conditions are met:

(A) The settlor is related by blood or marriage to, or is a cohabitant with, any one or more of the trustees, the person who drafted or transcribed the instrument, or the person who caused the instrument to be transcribed.

(B) The instrument is reviewed by an independent attorney who (1) counsels the settlor about the nature of his or her intended trustee designation and (2) signs and delivers to the settlor and the designated trustee a certificate in substantially the following form:

"CERTIFICATE OF INDEPENDENT REVIEW

I, _____, have reviewed
(attorney's name)
_____ and have counseled my client,
(name of instrument)
_____, fully and privately on the nature and
(name of client)
legal effect of the designation as trustee of _____
(name of trustee)

contained in that instrument. I am so disassociated from the interest of the person named as trustee as to be in a position to advise my client impartially and confidentially as to the consequences of the

designation. On the basis of this counsel, I conclude that the designation of a person who would otherwise be subject to removal under paragraph (6) of subdivision (b) of Section 15642 of the Probate Code is clearly the settlor's intent and that intent is not the product of fraud, menace, duress, or undue influence.

_____ _____"

(Name of Attorney) (Date)

This independent review and certification may occur either before or after the instrument has been executed, and if it occurs after the date of execution, the named trustee shall not be subject to removal under this paragraph. Any attorney whose written engagement signed by the client is expressly limited to the preparation of a certificate under this subdivision, including the prior counseling, shall not be considered to otherwise represent the client.

(C) After full disclosure of the relationships of the persons involved, the instrument is approved pursuant to an order under Article 10 (commencing with Section 2580) of Chapter 6 of Part 4 of Division 4.

(7) If, as determined under Part 17 (commencing with Section 810) of Division 2, the trustee is substantially unable to manage the trust's financial resources or is otherwise substantially unable to execute properly the duties of the office. When the trustee holds the power to revoke the trust, substantial inability to manage the trust's financial resources or otherwise execute properly the duties of the office may not be proved solely by isolated incidents of negligence or improvidence.

(8) If the trustee is substantially unable to resist fraud or undue influence. When the trustee holds the power to revoke the trust, substantial inability to resist fraud or undue influence may not be proved solely by isolated incidents of negligence or improvidence.

(9) For other good cause.

(c) If, pursuant to paragraph (6) of subdivision (b), the court finds that the designation of the trustee was not consistent with the intent of the settlor or was the product of fraud, menace, duress, or undue influence, the person being removed as trustee shall bear all costs of the proceeding, including reasonable attorney's fees.

(d) If the court finds that the petition for removal of the trustee was filed in bad faith and that removal would be contrary to the settlor's intent, the court may order that the person or persons seeking the removal of the trustee bear all or any part of the costs of the proceeding, including reasonable attorney's fees.

(e) If it appears to the court that trust property or the interests of a beneficiary may suffer loss or injury pending a decision on a petition for removal of a trustee and any appellate review, the court may, on its own motion or on petition of a cotrustee or beneficiary, compel the trustee whose removal is sought to surrender trust property to a cotrustee or to a receiver or temporary trustee. The court may also suspend the powers of the trustee to the extent the court deems necessary.

(f) For purposes of this section, the term "related by blood or marriage" shall include persons within the seventh degree.

CHAPTER 85

An act to amend Section 1797.196 of the Health and Safety Code, relating to emergency medical services.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 1797.196 of the Health and Safety Code, as amended by Section 1 of Chapter 111 of the Statutes of 2005, is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care under subdivision (b) of Section 1714.21 of the Civil Code, if that person or entity does all of the following:

(1) Complies with all regulations governing the placement of an AED.

(2) Ensures all of the following:

(A) That the AED is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(B) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these checks shall be maintained.

(C) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. After the first five AED units are acquired, for each additional five AED units acquired, one employee shall be trained beginning with the first AED unit acquired. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.

(E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not be limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.

(3) When an AED is placed in a building, building owners shall ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.

(4) When an AED is placed in a building, no less than once a year, building owners shall notify their tenants as to the location of AED units in the building.

(5) When an AED is placed in a public or private K–12 school, the principal shall ensure that the school administrators and staff annually receive a brochure, approved as to contents and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED. The principal shall also ensure that similar information is posted next to every AED. The principal shall, at least annually, notify school employees as to the location of all AED units on the campus. The principal shall designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED during normal operating hours. As used in this paragraph, "normal operating hours" means during the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 may be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 1797.196 of the Health and Safety Code, as added by Section 4 of Chapter 718 of the Statutes of 2002, is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person who acquires an AED shall do all of the following:

(1) Comply with all regulations governing the training, use, and placement of an AED.

(2) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(3) Ensure all of the following:

(A) That expected AED users complete a training course in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross.

(B) That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(C) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks shall be maintained.

(D) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(E) That there is involvement of a licensed physician in developing a program to ensure compliance with regulations and requirements for training, notification, and maintenance.

(c) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(d) This section shall become operative on January 1, 2013.

CHAPTER 86

An act to amend Section 580 of the Code of Civil Procedure, and to amend Section 290 of, and to repeal and add Sections 291 and 4502 of, the Family Code, relating to enforcement of judgments.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 580 of the Code of Civil Procedure is amended to read:

580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed that demanded in the complaint, in the statement required by Section 425.11, or in the statement provided for by Section 425.115; but in any other case, the court may grant the plaintiff any relief consistent with the case made by the complaint and embraced within the issue. The court may impose liability, regardless of whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding the maximum amount in controversy for a limited civil case as provided in Section 85, exclusive of attorney's fees, interest, and costs.

(2) A permanent injunction.

(3) A determination of title to real property.

(4) Declaratory relief, except as authorized by Section 86.

SEC. 2. Section 290 of the Family Code is amended to read:

290. A judgment or order made or entered pursuant to this code may be enforced by the court by execution, the appointment of a receiver, or contempt, or by any other order as the court in its discretion determines from time to time to be necessary.

SEC. 3. Section 291 of the Family Code is repealed.

SEC. 4. Section 291 is added to the Family Code, to read:

291. (a) A money judgment or judgment for possession or sale of property that is made or entered under this code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied.

(b) A judgment described in this section is exempt from any requirement that a judgment be renewed. Failure to renew a judgment described in this section has no effect on the enforceability of the judgment.

(c) A judgment described in this section may be renewed pursuant to Article 2 (commencing with Section 683.110) of Chapter 3 of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure. An application for renewal of a judgment described in this section, whether or not payable in installments, may be filed:

(1) If the judgment has not previously been renewed as to past due amounts, at any time.

(2) If the judgment has previously been renewed, the amount of the judgment as previously renewed and any past due amount that became due and payable after the previous renewal may be renewed at any time after a period of at least five years has elapsed from the time the judgment was previously renewed.

(d) In an action to enforce a judgment for child, family, or spousal support, the defendant may raise, and the court may consider, the defense of laches only with respect to any portion of the judgment that is owed to the state.

(e) Nothing in this section supersedes the law governing enforcement of a judgment after the death of the judgment creditor or judgment debtor.

(f) On or before January 1, 2008, the Judicial Council shall develop self-help materials that include: (1) a description of the remedies available for enforcement of a judgment under this code, and (2) practical advice on how to avoid disputes relating to the enforcement of a support obligation. The self-help materials shall be made available to the public through the Judicial Council self-help Web site.

(g) As used in this section, "judgment" includes an order.

SEC. 5. Section 4502 of the Family Code is repealed.

SEC. 6. Section 4502 is added to the Family Code, to read:

4502. The period for enforcement and procedure for renewal of a judgment or order for child, family, or spousal support is governed by Section 291.

CHAPTER 87

An act to amend Section 53069.8 of the Government Code, relating to local law enforcement.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 53069.8 of the Government Code is amended to read:

53069.8. (a) The board of supervisors of any county may contract on behalf of the sheriff of that county, and the legislative body of any city may contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to:

(1) Private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional basis.

(2) Private nonprofit corporations that are recipients of federal, state, county, or local government low-income housing funds or grants to preserve the peace on an ongoing basis.

(3) Private entities at critical facilities on an occasional or ongoing basis. A "critical facility" means any building, structure, or complex that in the event of a disaster, whether natural or manmade, poses a threat to public safety, including, but not limited to, airports, oil refineries, and nuclear and conventional fuel powerplants.

(b) Contracts entered into pursuant to this section shall provide for full reimbursement to the county or city of the actual costs of providing those services, as determined by the county auditor or auditor-controller, or by the city, as the case may be.

(c) (1) The services provided pursuant to this section shall be rendered by regularly appointed full-time peace officers, as defined in Section 830.1 of the Penal Code.

(2) Notwithstanding paragraph (1), services provided in connection with special events or occurrences, as specified in paragraph (1) of subdivision (a), may be rendered by Level I reserve peace officers, as defined in paragraph (2) of subdivision (a) of Section 830.6 of the Penal Code, who are authorized to exercise the powers of a peace officer, as defined in Section 830.1 of the Penal Code, if there are no regularly appointed full-time peace officers available to fill the positions as required in the contract.

(d) Peace officer rates of pay shall be governed by a memorandum of understanding.

(e) A contract entered into pursuant to this section shall encompass only law enforcement duties and not services authorized to be provided by a private patrol operator, as defined in Section 7582.1 of the Business and Professions Code.

(f) Contracting for law enforcement services, as authorized by this section, shall not reduce the normal and regular ongoing service that the county, agency of the county, or city otherwise would provide.

(g) Prior to contracting for ongoing services under paragraph (2) or (3) of subdivision (a), the board of supervisors or legislative body, as applicable, shall discuss the contract and the requirements of this section at a duly noticed public hearing.

CHAPTER 88

An act to amend Sections 81305, 81460, and 81608.5 of the Water Code, relating to water.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 81305 of the Water Code is amended to read:

81305. "Eligible public entities" means the 25 public entities in San Mateo County, Alameda County, and Santa Clara County that purchase water from San Francisco pursuant to the Master Water Sales Contract, that include Alameda County Water District, City of Brisbane, City of Burlingame, Coastside County Water District, City of Daly City, City of East Palo Alto, Estero Municipal Improvement District, Guadalupe Valley Municipal Improvement District, City of Hayward, Town of Hillsborough, City of Menlo Park, Mid-Peninsula Water District, City of Millbrae, City of Milpitas, City of Mountain View, North Coast County Water District, City of Palo Alto, Purissima Hills Water District, City of Redwood City, City of San Bruno, City of San Jose, City of Santa Clara, Skyline County Water District, City of Sunnyvale, and Westborough Water District.

SEC. 2. Section 81460 of the Water Code is amended to read:

81460. (a) The water delivery quantities set forth in subdivision (b) describe, for the purposes of this division, the average daily deliveries of water from San Francisco to the identified entities during the 2000–01 fiscal year.

(b) The water delivery quantities are as follows:

Name	Average Daily Deliveries in Hundred Cubic Feet
Alameda County Water District	15,709
California Water Service Company	49,384
City of Brisbane	489
City of Burlingame	6,503
City of Daly City	6,070
City of East Palo Alto	2,864
City of Hayward	24,546
Town of Hillsborough	5,099
City of Menlo Park	4,616
City of Millbrae	3,669
City of Milpitas	9,437
City of Mountain View	14,860
City of Palo Alto	18,438
City of Redwood City	15,753
City of San Bruno	3,266
City of San Jose	6,436
City of Santa Clara	5,473
City of Sunnyvale	13,112
Coastside County Water District	2,070
Estero Municipal Improvement District	7,873
Guadalupe Valley Municipal	611

Name	Average Daily Deliveries in Hundred Cubic Feet
Improvement District	
Mid-Peninsula Water District	4,789
North Coast County Water District	4,594
Purissima Hills Water District	2,921
Skyline County Water District	226
Stanford University	3,604
Westborough Water District	1,352

(c) If San Francisco becomes a member of the agency, the average daily delivery of water to San Francisco during the 2000–01 fiscal year, for the purposes of this division, shall be determined to be 118,973 hundred cubic feet.

SEC. 3. Section 81608.5 of the Water Code is amended to read:

81608.5. "Public entities" means San Francisco and the public entities in the Counties of Alameda, San Mateo, and Santa Clara that purchase water from San Francisco pursuant to the master water sales contract, that include Alameda County Water District, City of Brisbane, City of Burlingame, Coastside County Water District, City of Daly City, City of East Palo Alto, Estero Municipal Improvement District, Guadalupe Valley Municipal Improvement District, City of Hayward, Town of Hillsborough, City of Menlo Park, Mid-Peninsula Water District, City of Millbrae, City of Milpitas, City of Mountain View, North Coast County Water District, City of Palo Alto, Purissima Hills Water District, City of Redwood City, City of San Bruno, City of San Jose, City of Santa Clara, Skyline County Water District, City of Sunnyvale, and Westborough Water District.

CHAPTER 89

An act to add Section 2919 to the Business and Professions Code, relating to psychologists.

[Approved by Governor July 20, 2006. Filed with
Secretary of State July 20, 2006.]

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

SECTION 1. Section 2919 is added to the Business and Professions Code, to read:

2919. A licensed psychologist shall retain a patient's health service records for a minimum of seven years from the patient's discharge date. If the patient is a minor, the patient's health service records shall be retained for a minimum of seven years from the date the patient reaches 18 years of age.

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 90

An act to add Section 19303 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 20, 2006. Filed with
Secretary of State July 20, 2006.]

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

SECTION 1. Section 19303 is added to the Revenue and Taxation Code, to read:

19303. The Franchise Tax Board shall revise returns required to be filed pursuant to Article 1 (commencing with Section 18501) of Chapter 2 of Part 10.2 of Division 2 to allow a taxpayer, who is an individual, to designate more than one account at financial institutions for direct deposit of the taxpayer's refund.

CHAPTER 91

An act to amend Sections 191.5, 192, 192.5, 193, and 193.5 of the Penal Code, relating to vehicles.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 191.5 of the Penal Code is amended to read:

191.5. (a) Gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, and with gross negligence.

(b) Vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

(c) (1) Except as provided in subdivision (d), gross vehicular manslaughter while intoxicated in violation of subdivision (a) is punishable by imprisonment in the state prison for 4, 6, or 10 years.

(2) Vehicular manslaughter while intoxicated in violation of subdivision (b) is punishable by imprisonment in a county jail for not more than one year or by imprisonment in the state prison for 16 months or 2 or 4 years.

(d) A person convicted of violating subdivision (a) who has one or more prior convictions of this section or of paragraph (1) of subdivision (c) of Section 192, subdivision (a) or (b) of Section 192.5 of this code, or of violating Section 23152 punishable under Sections 23540, 23542, 23546, 23548, 23550, or 23552 of, or convicted of Section 23153 of, the Vehicle Code, shall be punished by imprisonment in the state prison for a term of 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant to this subdivision.

(e) This section shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.

(f) This section shall not be construed as making any homicide in the driving of a vehicle or the operation of a vessel punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(g) For the penalties in subdivision (d) to apply, the existence of any fact required under subdivision (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact.

SEC. 2. Section 192 of the Penal Code is amended to read:

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary—upon a sudden quarrel or heat of passion.

(b) Involuntary—in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) Vehicular—

(1) Except as provided in subdivision (a) of Section 191.5, driving a vehicle in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(2) Driving a vehicle in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in connection with a violation of paragraph (3) of subdivision (a) of Section 550, where the vehicular collision or vehicular accident was knowingly caused for financial gain and proximately resulted in the death of any person. This provision shall not be construed to prevent prosecution of a defendant for the crime of murder.

This section shall not be construed as making any homicide in the driving of a vehicle punishable that is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the

commission of a lawful act which might produce death, in an unlawful manner.

"Gross negligence," as used in this section, shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.

SEC. 3. Section 192.5 of the Penal Code is amended to read:

192.5. Vehicular manslaughter pursuant to subdivision (b) of Section 191.5 and subdivision (c) of Section 192 is the unlawful killing of a human being without malice aforethought, and includes:

(a) Operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act that might produce death, in an unlawful manner, and with gross negligence.

(b) Operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

(c) Operating a vessel in the commission of an unlawful act, not amounting to a felony, and with gross negligence; or operating a vessel in the commission of a lawful act that might produce death, in an unlawful manner, and with gross negligence.

(d) Operating a vessel in the commission of an unlawful act, not amounting to a felony, but without gross negligence; or operating a vessel in the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

SEC. 4. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for 3, 6, or 11 years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three, or four years.

(c) Vehicular manslaughter is punishable as follows:

(1) A violation of paragraph (1) of subdivision (c) of Section 192 is punishable either by imprisonment in the county jail for not more than

one year or by imprisonment in the state prison for two, four, or six years.

(2) A violation of paragraph (2) of subdivision (c) of Section 192 is punishable by imprisonment in the county jail for not more than one year.

(3) A violation of paragraph (3) of subdivision (c) of Section 192 is punishable by imprisonment in the state prison for 4, 6, or 10 years.

SEC. 5. Section 193.5 of the Penal Code is amended to read:

193.5. Manslaughter committed during the operation of a vessel is punishable as follows:

(a) A violation of subdivision (a) of Section 192.5 is punishable by imprisonment in the state prison for 4, 6, or ten years.

(b) A violation of subdivision (b) of Section 192.5 is punishable by imprisonment in a county jail for not more than one year or by imprisonment in the state prison for 16 months or 2 or 4 years.

(c) A violation of subdivision (c) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for two, four, or six years.

(d) A violation of subdivision (d) of Section 192.5 is punishable by imprisonment in the county jail for not more than one year.

CHAPTER 92

An act to amend Section 293 of the Penal Code, relating to information regarding victims of sex offenses.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 293 of the Penal Code is amended to read:

293. (a) Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.

(b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.

(c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.

(d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, probation offices of county probation departments, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

(e) For purposes of this section, sex offense means any crime listed in paragraph (2) of subdivision (f) of Section 6254 of the Government Code which is also defined in Chapter 1 (commencing with Section 261) or Chapter 5 (commencing with Section 281) of Part 1 of Title 9.

(f) Parole officers of the Department of Corrections and hearing officers of the parole authority, and probation officers of county probation departments, shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee who is alleged to have committed the sex offense while on parole, or in the case of a county probation officer, the person who is alleged to have committed the sex offense is a probationer or is under investigation by a county probation department pursuant to Section 1203.

CHAPTER 93

An act to amend Sections 12811.5 and 12836.6 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 12811.5 of the Food and Agricultural Code is amended to read:

12811.5. The director may rely upon any evaluations of previously submitted data to determine whether to accept an application for

registration of a new pesticide product, an amendment to the registration of a registered pesticide product, or to maintain the registration of a registered pesticide product regardless of the ownership of the data previously evaluated. However, effective January 1, 2006, applicants will be subject to the following provisions:

(a) If an applicant for registration of a pesticide product, or an amendment to the registration of a registered pesticide product, including a registrant that desires to maintain its registration of a registered pesticide product after the director makes a formal reevaluation request for additional data, does not submit its own data to fulfill a current data requirement imposed by the director and relies upon data that the applicant does not own or have written permission to rely upon that was submitted to the director by another entity after January 1, 1991, and meets the three criteria set forth in this subdivision, the applicant must either (i) obtain written permission from the data owner to rely on the data, (ii) formulate or obtain its product from a source that has data authorization from the data owner, or a source that complies with subdivision (c), or (iii) if the data meets the criteria set forth in paragraphs (1), (2), and (3), irrevocably offer to pay the data owner a share of the cost of producing the data and comply with the provisions of subdivision (d). The director may rely upon data submitted prior to January 1, 1991, or that does not meet the criteria set forth in paragraphs (1), (2), and (3) to support any application or comply with any formal reevaluation request for additional data, without permission from the data owner. An offer to pay, and a payment pursuant to that offer, shall only be required as to data not submitted by the applicant that meets the criteria set forth in paragraphs (1), (2), and (3). To be eligible for cost sharing pursuant to this subdivision, the data must meet all of the following requirements:

(1) The data was required by the director in order to obtain, amend, or maintain the data owner's California registration or registrations for uses covered by the application, amendment, or formal reevaluation request for additional data.

(2) There has been no arbitration award, data compensation, or data cost-sharing agreement pertaining to data supporting the product at the federal level pursuant to Section 3(c)(1) (F)(iii) or 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a(c)(1)(F)(iii) or 136a(c)(2)(B)), or, if an award or agreement exists, the use of data in California was excluded from compensation or cost sharing on its face.

(3) The data that fulfills a current requirement was submitted to the United States Environmental Protection Agency or the department no more than 15 years prior to the date of the applicant's California registration, application, or amendment or the formal reevaluation request

for additional data to which the registrant's reliance responds, provided that as to data submitted to the department as of August 1, 2005, in support of the first registration of a product, the applicable period shall be 17 years from the date of submission to the United States Environmental Protection Agency.

(b) If the director previously imposed a specific documented data requirement after January 1, 1991, to obtain, amend, or maintain the California registration of a pesticide product substantially similar to the applicant's product and that data requirement is not currently imposed in California for registration, amendment, or maintenance of the applicant's product, the applicant is further obligated to submit data to meet the requirement, obtain written permission from an owner of the data to rely upon the data, formulate or obtain its product from a source that has authorization from the data owner to rely upon the data or from a source that complies with subdivision (c), or, if the data meets the criteria set forth in paragraphs (1), (2), and (3), irrevocably offer to pay the data owner a share in the cost of producing the data and comply with the provisions of subdivision (c). An offer to pay, and a payment pursuant to that offer, shall only be required as to data not submitted by the applicant that meets the criteria set forth in paragraphs (1), (2), and (3). To be eligible for cost sharing pursuant to this subdivision, the data must meet all of the following requirements:

(1) The data met a specific, documented requirement of the director to obtain, amend, or maintain the California registration of the data owner's pesticide product for a use covered by the applicant's application or amendment.

(2) There has been no arbitration award, data compensation, or data cost-sharing agreement pertaining to data supporting the product at the federal level pursuant to Section 3(c)(1)(F)(iii) or 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a(c)(1)(F)(iii) or 136a(c)(2)(B)), or, if an award or agreement exists, the use of the data in California was excluded from compensation or cost sharing on its face.

(3) The data was submitted to the U.S. Environmental Protection Agency or Department of Pesticide Regulation by the data owner after January 1, 1991, and no more than 15 years prior to the date of the applicant's California application for registration or amendment or the response to a formal specific document data requirement to which the registrant's reliance responds, provided that as to data submitted to the department as of August 1, 2005, in support of the first registration of a product, the applicable period shall be 17 years from the date of submission to the U.S. Environmental Protection Agency.

(c) An applicant may formulate its product from a source that does not have data authorization provided that source has submitted data to support the product or makes or has made an irrevocable offer to pay the data owner a share of the cost of producing the data required pursuant to subdivision (a) or (b) for the applicant's product and complies with or has made payment in accordance with the provisions of subdivision (d). In the event that the source has already reached a data compensation or cost-sharing agreement or there has been an arbitration award under the Federal Insecticide, Fungicide, and Rodenticide Act (commencing at 7 U.S.C. Sec. 136) that excludes the right to rely on the data to satisfy the California requirement on its face, the source must make or have made a new irrevocable offer to pay a share of the cost of producing that data to support the applicant's product in California and comply with the provisions of subdivision (d).

(d) If an applicant is required to offer to pay a share in the cost of producing the data pursuant to subdivision (a) or (b), or if a source of product makes an offer pursuant to subdivision (c), the applicant or source must submit to the data owner upon application to the department an irrevocable offer to pay the data owner a share in the cost of producing the data and to comply with regulations promulgated under this subdivision to determine the amount and terms, if the parties cannot agree. If a data owner for which cost sharing is required under subdivision (a) or (b) cannot be identified from information readily available to the applicant, the applicant's obligation under subdivision (a) or (b) will be absolved if the data owner does not identify himself or herself to the applicant within 12 months after registration of the pesticide product. If within 12 months of registration, the data owner identifies himself or herself to the applicant and the applicant has not already made an irrevocable offer to pay to the data owner, or the applicant's source of product has not made an offer pursuant to subdivision (c), the applicant must do so promptly. In either event, the specific terms and amount of payments to be made shall be fixed by agreement between the applicant and the data owner, but determination of those amounts and terms shall not delay approval of the applicant's application.

If agreement cannot be reached about the terms and amount of payment required by this section at any time more than 90 days after issuance of an irrevocable offer to pay, either the applicant, source or data owner may initiate, or with the consent of all parties, join a proceeding under the Federal Insecticide, Fungicide, and Rodenticide Act (commencing at 7 U.S.C. Sec. 136), pursuant to regulations promulgated by the director pursuant to this statute. The purpose of this proceeding shall be to determine the amount due under this section. The director shall promulgate those regulations as emergency regulations within 60 days

of the enactment of the bill that enacts this section. The regulations shall provide all of the following:

(1) Allow the proceeding authorized by this subdivision, upon mutual agreement of the parties, to be consolidated with dispute resolution under the Federal Insecticide Fungicide and Rodenticide Act (commencing at 7 U.S.C. Sec. 136).

(2) Require that the decisionmaker consider, among other factors, that the data owner's exclusive right to sell the pesticide resulted in the data owner recovering all or part of the costs of generating the data.

(3) Require that the parties to the proceeding share equally in the payment of the expenses thereof.

(e) If a data owner fails to participate in a procedure for reaching an agreement or in a proceeding as required by subdivision (d), or fails to comply with the terms of an agreement or decision conducted under subdivision (d), then that data owner forfeits his or her right to cost recovery as a result of the use of the data at issue.

(f) If the director finds that an applicant has failed to make an offer to pay as required under subdivision (a) or (b), or if its source of product has failed to make an offer pursuant to subdivision (c), or if an applicant or its source of product has failed to participate in a proceeding for reaching an agreement, or has refused to participate in a proceeding pursuant to subdivision (d), or has failed to comply with an agreement or to comply with an order, or to pay an award resulting from that proceeding, the director shall cancel the registration of the pesticide product in support of which the data was used in accordance with the provisions of subdivision (g), notwithstanding the provisions of Section 12825.

(g) If the applicant subject to subdivision (a) or (b) fails to comply with the provisions of this article, the data owner shall notify the director of the specific provision of noncompliance and provide proof of notification to the applicant of its claim of noncompliance. All parties shall have 30 days from the date of receipt of notification by the director to submit written evidence or arguments to the director regarding the claim and any defenses thereto. The director shall provide a written finding within 60 days of the deadline for submission as to the claim and the resulting consequences.

(h) No hearing or live testimony shall be conducted under subdivision (g) and this proceeding shall not be used as mechanism to prevent or delay the registration or payment for cost sharing as determined by this article. The finding of the director shall be final and conclusive, except that any party aggrieved by such a finding may seek review within 30 days of the finding pursuant to Section 1094.5 of the Code of Civil Procedure.

(i) In lieu of seeking a determination by the director and cancellation of the registration pursuant to subdivision (f), the data owner may bring an action in any California court of competent jurisdiction against the applicant to enforce the obligations of that party set forth in the provisions of this section.

(j) No cost sharing as provided in subdivisions (a), (b), and (c) shall be required to support an application for annual renewal of a pesticide product registration, provided this provision shall not authorize renewal of a product registered prior to the effective date of this section if that registration is declared to have been unlawfully issued by a court of competent jurisdiction.

(k) The Department of Pesticide Regulation shall make available in the public domain its index of data submitted in support of registration applications, the ownership of that data, and the date it was submitted to California.

SEC. 2. Section 12836.6 of the Food and Agricultural Code is amended to read:

12836.6. The director shall, with the assistance of the Legislative Analyst, conduct a study to consider more carefully the consequences of data-sharing agreements required under Section 12811.5 and the volume of high-hazard pesticides sold in California. The report shall be submitted to the Legislature no later than December 31, 2008.

CHAPTER 94

An act to add Section 679.08 to the Penal Code, relating to crimes.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

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

SECTION 1. Section 679.08 is added to the Penal Code, to read:

679.08. (a) (1) Whenever there has been a crime committed against a victim, the law enforcement officer assigned to the case may provide the victim of the crime with a "Victim's Rights Card," as specified in subdivision (b).

(2) This section shall be operative in a city or county only upon the adoption of a resolution by the city council or board of supervisors to that effect.

(3) This section shall not be interpreted as replacing or prohibiting any services currently offered to victims of crime by any agency or person affected by this section.

(b) A "Victim's Rights Card" means a card or paper that provides a printed notice with a disclaimer, in at least 10-point type, to a victim of a crime regarding potential services that may be available under existing state law to assist the victim. The printed notice shall include the following language or language substantially similar to the following:

"California law provides crime victims with important rights. If you are a victim of crime, you may be entitled to the assistance of a victim advocate who can answer many of the questions you might have about the criminal justice system."

"Victim advocates can assist you with the following:

(1) Explaining what information you are entitled to receive while criminal proceedings are pending.

(2) Assisting you in applying for restitution to compensate you for crime-related losses.

(3) Communicating with the prosecution.

(4) Assisting you in receiving victim support services.

(5) Helping you prepare a victim impact statement before an offender is sentenced."

"To speak with a victim advocate, please call any of the following numbers:"

[Set forth the name and phone number, including area code, of all victim advocate agencies in the local jurisdiction]

"PLEASE NOTE THAT THIS INFORMATION IS PROVIDED IN AN ATTEMPT TO ASSIST THE VICTIM, BY NOTIFYING THE VICTIM ABOUT SOME, BUT NOT NECESSARILY ALL, SERVICES AVAILABLE TO THE VICTIM; THE PROVISION OF THIS INFORMATION AND THE INFORMATION CONTAINED THEREIN IS NOT LEGAL ADVICE AND IS NOT INTENDED TO CONSTITUTE A GUARANTEE OF ANY VICTIM'S RIGHTS OR OF A VICTIM'S ELIGIBILITY OR ENTITLEMENT TO ANY SPECIFIC BENEFITS OR SERVICES."

(c) Any act or omission covered by this section is a discretionary act pursuant to Section 820.2 of the Government Code.

CHAPTER 95

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 2006. Filed with
Secretary of State July 20, 2006.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for the developmentally disabled are covered subject to utilization controls.

(d) (1) Purchase of prescribed drugs is covered subject to the Medi-Cal List of Contract Drugs and utilization controls.

(2) Purchase of drugs used to treat erectile dysfunction or any off-label uses of those drugs are covered only to the extent that federal financial participation is available.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetist services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part

of an outpatient medical procedure or for portable X-ray services in a nursing facility or any category of intermediate care facility for the developmentally disabled.

(g) Blood and blood derivatives are covered.

(h) (1) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions that preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's California Children Services Program.

(2) For persons 21 years of age or older, the services specified in paragraph (1) shall be provided subject to the following conditions:

(A) Periodontal treatment is not a benefit.

(B) Endodontic therapy is not a benefit except for vital pulpotomy.

(C) Laboratory processed crowns are not a benefit.

(D) Removable prosthetics shall be a benefit only for patients as a requirement for employment.

(E) The director may, by regulation, provide for the provision of fixed artificial dentures that are necessary for medical conditions that preclude the use of removable dental prostheses.

(F) Notwithstanding the conditions specified in subparagraphs (A) to (E), inclusive, the department may approve services for persons with special medical disorders subject to utilization review.

(3) Paragraph (2) shall become inoperative July 1, 1995.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and

when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

Therapeutic shoes and inserts are covered when provided to beneficiaries with a diagnosis of diabetes, subject to utilization controls, to the extent that federal financial participation is available.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control. The utilization controls shall allow authorization of durable medical equipment needed to assist a disabled beneficiary in caring for a child for whom the disabled beneficiary is a parent, stepparent, foster parent, or legal guardian, subject to the availability of federal financial participation. The department shall adopt emergency regulations to define and establish criteria for assistive durable medical equipment in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(n) Family planning services are covered, subject to utilization controls.

(o) Inpatient intensive rehabilitation hospital services, including respiratory rehabilitation services, in a general acute care hospital are covered, subject to utilization controls, when either of the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery.

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(p) Adult day health care is covered in accordance with Chapter 8.7 (commencing with Section 14520).

(q) (1) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(2) All dental hygiene services provided by a registered dental hygienist in alternative practice pursuant to Sections 1768 and 1770 of the Business and Professions Code may be covered as long as they are within the scope of Denti-Cal benefits and they are necessary services provided by a registered dental hygienist in alternative practice.

(r) (1) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

(2) All providers enrolled under this subdivision shall satisfy all applicable statutory and regulatory requirements for becoming a Medi-Cal provider.

(3) This subdivision shall be implemented only to the extent funding is available under Section 14106.6.

(s) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to those persons. These services may be provided to patients placed in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life-support systems, including, but not limited to, support of respiratory functions.

(21) Respiratory care practitioner services as defined in Sections 3702 and 3703 of the Business and Professions Code, subject to prescription by a physician and surgeon.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home- and community-based services waiver.

(t) Home- and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for those services under waivers granted in accordance with Section 1396n of Title 42 of the United States Code. The director may seek waivers for any or all home- and community-based services approvable under Section 1396n of Title 42 of the United States Code. Coverage for those services shall be limited by the terms, conditions, and duration of the federal waivers.

(u) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5

and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are available.

(v) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(w) Hospice service which is Medicare-certified hospice service is covered, subject to utilization controls. Coverage shall be available only to the extent that no additional net program costs are incurred.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

(y) Home- and community-based services approved by the United States Department of Health and Human Services for beneficiaries with a diagnosis of AIDS or ARC, who require intermediate care or a higher level of care.

Services provided pursuant to a waiver obtained from the Secretary of the United States Department of Health and Human Services pursuant to this subdivision, and which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with the waiver, and subject to the terms, conditions, and duration of the waiver. These services shall be provided to individual beneficiaries in accordance with the client's needs as identified in the plan of care, and subject to medical necessity and applicable utilization control.

The director may under this section contract with organizations qualified to provide, directly or by subcontract, services provided for in this subdivision to eligible beneficiaries. Contracts or agreements entered into pursuant to this division shall not be subject to the Public Contract Code.

(z) Respiratory care when provided in organized health care systems as defined in Section 3701 of the Business and Professions Code, and as an in-home medical service as outlined in subdivision (s).

(aa) (1) There is hereby established in the department, a program to provide comprehensive clinical family planning services to any person who has a family income at or below 200 percent of the federal poverty level, as revised annually, and who is eligible to receive these services pursuant to the waiver identified in paragraph (2). This program shall be known as the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program.

(2) The department shall seek a waiver for a program to provide comprehensive clinical family planning services as described in paragraph (8). The program shall be operated only in accordance with the waiver and the statutes and regulations in paragraph (4) and subject to the terms, conditions, and duration of the waiver. The services shall be provided under the program only if the waiver is approved by the federal Centers for Medicare and Medicaid Services in accordance with Section 1396n of Title 42 of the United States Code and only to the extent that federal financial participation is available for the services.

(3) Solely for the purposes of the waiver and notwithstanding any other provision of law, the collection and use of an individual's social security number shall be necessary only to the extent required by federal law.

(4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005, and 24013, and any regulations adopted under these statutes shall apply to the program provided for under this subdivision. No other provision of law under the Medi-Cal program or the State-Only Family Planning Program shall apply to the program provided for under this subdivision.

(5) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, without taking regulatory action, the provisions of the waiver after its approval by the federal Health Care Financing Administration and the provisions of this section by means of an all-county letter or similar instruction to providers. Thereafter, the department shall adopt regulations to implement this section and the approved waiver in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the effective date of the act adding this subdivision, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

(6) In the event that the Department of Finance determines that the program operated under the authority of the waiver described in

paragraph (2) is no longer cost effective, this subdivision shall become inoperative on the first day of the first month following the issuance of a 30-day notification of that determination in writing by the Department of Finance to the chairperson in each house that considers appropriations, the chairpersons of the committees, and the appropriate subcommittees in each house that considers the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(7) If this subdivision ceases to be operative, all persons who have received or are eligible to receive comprehensive clinical family planning services pursuant to the waiver described in paragraph (2) shall receive family planning services under the Medi-Cal program pursuant to subdivision (n) if they are otherwise eligible for Medi-Cal with no share of cost, or shall receive comprehensive clinical family planning services under the program established in Division 24 (commencing with Section 24000) either if they are eligible for Medi-Cal with a share of cost or if they are otherwise eligible under Section 24003.

(8) For purposes of this subdivision, "comprehensive clinical family planning services" means the process of establishing objectives for the number and spacing of children, and selecting the means by which those objectives may be achieved. These means include a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies, natural family planning, abstinence methods, and basic, limited fertility management. Comprehensive clinical family planning services include, but are not limited to, preconception counseling, maternal and fetal health counseling, general reproductive health care, including diagnosis and treatment of infections and conditions, including cancer, that threaten reproductive capability, medical family planning treatment and procedures, including supplies and followup, and informational, counseling, and educational services. Comprehensive clinical family planning services shall not include abortion, pregnancy testing solely for the purposes of referral for abortion or services ancillary to abortions, or pregnancy care that is not incident to the diagnosis of pregnancy. Comprehensive clinical family planning services shall be subject to utilization control and include all of the following:

(A) Family planning related services and male and female sterilization. Family planning services for men and women shall include emergency services and services for complications directly related to the contraceptive method, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies, and followup, consultation, and referral services, as indicated, which may require treatment authorization requests.

(B) All United States Department of Agriculture, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies that are in keeping with current standards of practice and from which the individual may choose.

(C) Culturally and linguistically appropriate health education and counseling services, including informed consent, that include all of the following:

(i) Psychosocial and medical aspects of contraception.

(ii) Sexuality.

(iii) Fertility.

(iv) Pregnancy.

(v) Parenthood.

(vi) Infertility.

(vii) Reproductive health care.

(viii) Preconception and nutrition counseling.

(ix) Prevention and treatment of sexually transmitted infection.

(x) Use of contraceptive methods, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies.

(xi) Possible contraceptive consequences and followup.

(xii) Interpersonal communication and negotiation of relationships to assist individuals and couples in effective contraceptive method use and planning families.

(D) A comprehensive health history, updated at the next periodic visit (between 11 and 24 months after initial examination) that includes a complete obstetrical history, gynecological history, contraceptive history, personal medical history, health risk factors, and family health history, including genetic or hereditary conditions.

(E) A complete physical examination on initial and subsequent periodic visits.

(ab) Purchase of prescribed enteral formulae is covered, subject to the Medi-Cal list of enteral formulae and utilization controls.

(ac) Diabetic testing supplies are covered when provided by a pharmacy, subject to utilization controls.

SEC. 2. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Services may implement, interpret, or make specific the provisions of paragraph (2) of subdivision (d) of Section 14132 of the Welfare and Institutions Code by means of provider bulletins or similar instructions. Thereafter, the State Department of Health Services may adopt regulations to implement that provision in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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 2006 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 96

An act to amend Section 7105 of the Health and Safety Code, relating to human remains.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 7105 of the Health and Safety Code is amended to read:

7105. (a) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services fails to act, or fails to delegate his or her authority to act to some other person within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(b) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services cannot be found within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, after reasonable inquiry, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(c) If any persons listed in paragraphs (1), (3), (4), (5), and (6), of subdivision (a) of Section 7100 that would otherwise have equal rights to control the disposition and arrange for funeral goods and services fail to agree on disposition and funeral goods and services to be provided within seven days of the date on which the right and duty of disposition devolved upon the persons, a funeral establishment or a cemetery authority having possession of the remains, or any person who has equal right to control the disposition of the remains may file a petition in the superior court in the county in which the decedent resided at the time of his or her death, or in which the remains are located, naming as a party to the action those persons who would otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties will have the control of disposition and to direct that person to make interment of the remains. The court, at the time of determining the person to whom the right of disposition will vest, shall, from the remaining parties to the action, establish an alternate order to whom the right to control disposition will pass if the person vested with the right to control disposition fails to act within seven days.

(d) If the person vested with the duty of interment has criminal charges pending against him or her for the unlawful killing of the decedent, in violation of Section 187 of, or subdivision (a) or (b) of Section 192 of, the Penal Code, the person or persons with the next highest priority prescribed by Section 7100 may petition a court of competent jurisdiction for an order for control of the disposition of the decedent's remains. For this purpose, it shall be conclusively presumed that the petitioner is the person entitled to control the disposition of the remains if the petitioner is next in the order of priority specified in Section 7100.

CHAPTER 97

An act to amend Section 19822 to the Government Code, relating to state employees.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 19822 of the Government Code is amended to read:

19822. (a) The director, by rule, shall determine the fair and reasonable value of maintenance, living quarters, housing, lodging, board, meals, food, household supplies, fuel, laundry, domestic servants, and other services furnished by the state as an employer to its employees.

The value so determined shall constitute the charges to be made to state employees for any maintenance or other services furnished by the state, unless the employee is entitled to maintenance or other services as compensation for his or her services or as actual and necessary expenses incurred in the performance of the state's business. Whenever a state employee is entitled to maintenance or other services as part or full compensation for services rendered, the value thereof for retirement purposes, as defined by Section 20630, and for salary or wage fixing purposes, shall also be determined in accordance with the values established by the department. The director, by rule, shall provide instruction for the administration of all lodging, maintenance, and other services furnished by the state as an employer to its employees. The director, by rule, shall provide for reasonable opportunity to be heard by departments or employees affected by this section.

(b) Compliance with all rules associated with the lodging, maintenance, and other services furnished by the state as an employer to its employees shall be the responsibility of each director of each state department possessing lodging or supplying maintenance or other services to its employees.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

CHAPTER 98

An act to amend Section 33445 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 33445 of the Health and Safety Code is amended to read:

33445. (a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or without the project area, if the legislative body determines all of the following:

(1) That the buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether the improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that the improvement is of benefit to an adjacent project area of the agency.

(2) That no other reasonable means of financing the buildings, facilities, structures, or other improvements, are available to the community.

(3) That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements will assist in the elimination of one or more blighting conditions inside the project area or provide housing for low- or moderate-income persons, and is consistent with the implementation plan adopted pursuant to Section 33490.

(b) The determinations by the agency and the local legislative body pursuant to subdivision (a) shall be final and conclusive. For redevelopment plans, and amendments to those plans which add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan. A redevelopment agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements which are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements which are publicly owned otherwise undertaken pursuant to this section.

(c) When the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of the land or all or part of the cost of the building,

facility, structure, or other improvement, or both, by periodic payments over a period of years.

(d) The obligation of the agency under the contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for the project area, which indebtedness may be made payable out of taxes levied in the project area and allocated to the agency under subdivision (b) of Section 33670, or out of any other available funds.

(e) In a case where the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement which has been or will be leased to the community, the contract may be made with, and the reimbursement may be made payable to, the community.

(f) With respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4,000,000 persons or more, the agency shall, in order to exercise the powers granted by this section, enter into an agreement with the rapid transit district which includes the county, or a portion thereof, in which agreement the rapid transit district shall be given all of the following responsibilities:

(1) To participate with the other parties to the agreement to design, determine the location and extent of the necessary rights-of-way for, and construct, the transportation, collection, and distribution systems and related peripheral parking structures and facilities.

(2) To operate and maintain the transportation, collection, and distribution systems and related peripheral parking structures and facilities in accordance with the rapid transit district's outstanding agreements and the agreement required by this paragraph.

(g) (1) Notwithstanding any other authority granted in this section, an agency shall not pay for, either directly or indirectly, with tax increment funds the construction, including land acquisition, related site clearance, or design costs, or rehabilitation of a building that is, or that will be used as, a city hall or county administration building.

(2) This subdivision shall not preclude an agency from making payments to construct, rehabilitate, or replace a city hall if an agency does any of the following:

(A) Allocates tax increment funds for this purpose during the 1988–89 fiscal year and each fiscal year thereafter in order to comply with federal and state seismic safety and accessibility standards.

(B) Uses tax increment funds for the purpose of rehabilitating or replacing a city hall that was seriously damaged during an earthquake

that was declared by the President of the United States to be a natural disaster.

(C) Uses the proceeds of bonds, notes, certificates of participation, or other indebtedness that was issued prior to January 1, 1994, for the purpose of constructing or rehabilitating a city hall, as evidenced by documents approved at the time of the issuance of the indebtedness.

CHAPTER 99

An act to amend Section 18951 of the Welfare and Institutions Code, relating to child abuse.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 18951 of the Welfare and Institutions Code is amended to read:

18951. As used in this chapter:

(a) "Child" means an individual under the age of 18 years.

(b) "Child services" means services for or on behalf of children, which shall include, but not be limited to, the following:

(1) Protective services.

(2) Caretaker services.

(3) Day care services, including dropoff care.

(4) Homemaker services or family aides.

(5) Counseling services.

(c) "Adult services" means services for or on behalf of a parent of a child, which shall include, but not be limited to, the following:

(1) Access to voluntary placement, long or short term.

(2) Counseling services before and after a crisis.

(3) Homemaker services or family aides.

(d) "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to:

(1) Psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel.

(2) Police officers or other law enforcement agents.

(3) Medical personnel with sufficient training to provide health services.

(4) Social workers with experience or training in child abuse prevention.

(5) Any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.

(e) "Child abuse" as used in this chapter means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances that indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition that results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development or capacity for independence.

(f) "Parent" means any person who exercises care, custody and control of the child as established by law.

CHAPTER 100

An act to amend Section 123115 of the Health and Safety Code, relating to health records.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 123115 of the Health and Safety Code is amended to read:

123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection or copying under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist,

or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

CHAPTER 101

An act relating to education finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Notwithstanding any other law, the average daily attendance for the second principal apportionment for the 2003–04 fiscal year for the Montecito Union Elementary School District shall be 95.51 percent of that district's October 2003 California Basic Educational Data System (CBEDS) enrollment of 401. The percentage of 95.51 was determined by averaging the ratios of the Montecito Union Elementary School District for the 2002–03 and 2004–05 fiscal years of reported second principal apportionment daily attendance to its October CBEDS enrollment.

SEC. 2. Notwithstanding any other law, for purposes of apportionments based upon annual units of average daily attendance, the 2003–04 annual units of average daily attendance for the Montecito Union Elementary School District shall equal the same number of average daily attendance units as its second principal apportionment for the 2003–04 fiscal year.

SEC. 3. The Legislature finds and declares that due to unique circumstances relating to the Montecito Union Elementary School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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

In order to provide necessary funding adjustments for the Montecito Union Elementary School District as soon as possible and to ensure the

timely processing of the reimbursement to the state, it is necessary that this act take effect immediately.

CHAPTER 102

An act to amend Section 1797.188 of, and to add Section 120260.5 to, the Health and Safety Code, relating to public health.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 1797.188 of the Health and Safety Code is amended to read:

1797.188. (a) As used in this section:

(1) "Prehospital emergency medical care person or personnel" means any of the following: an authorized registered nurse or mobile intensive care nurse, emergency medical technician-I, emergency medical technician-II, emergency medical technician-paramedic, lifeguard, firefighter, or peace officer, as defined or described by Sections 1797.56, 1797.80, 1797.82, 1797.84, 1797.182, and 1797.183, respectively, or a physician and surgeon who provides prehospital emergency medical care or rescue services.

(2) "Reportable disease or condition" or "a disease or condition listed as reportable" means those diseases prescribed by Subchapter 1 (commencing with Section 2500) of Chapter 4 of Title 17 of the California Administrative Code, as may be amended from time to time.

(3) "Exposed" means at risk for contracting the disease, as defined by regulations of the state department.

(4) "Health facility" means a health facility, as defined in Section 1250, including a publicly operated facility.

(b) In addition to the communicable disease testing and notification procedures applicable under Chapter 3.5 (commencing with Section 120260) of Part 1 of Division 105, all prehospital emergency medical care personnel, whether volunteers, partly paid, or fully paid, who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, shall be notified that they have been exposed to the disease and should contact the county health officer if all the following are satisfied:

(1) The prehospital emergency medical care person, who has rendered emergency medical or rescue services and has been exposed to a person afflicted with a reportable disease or condition, provides the health facility with his or her name and telephone number at the time the patient is transferred from that prehospital emergency medical care person to the admitting health facility; or the party transporting the person afflicted with the reportable disease or condition provides that health facility with the name and telephone number of the prehospital emergency medical care person who provided the emergency medical or rescue services.

(2) The health facility reports the name and telephone number of the prehospital emergency medical care person to the county health officer upon determining that the person to whom the prehospital emergency medical care person provided the emergency medical or rescue services is diagnosed as being afflicted with a reportable disease or condition.

(c) The county health officer shall immediately notify the prehospital emergency medical care person who has provided emergency medical or rescue services and has been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, upon receiving the report from a health facility pursuant to paragraph (1) of subdivision (b). The county health officer shall not disclose the name of the patient or other identifying characteristics to the prehospital emergency medical care person.

Nothing in this section shall be construed to authorize the further disclosure of confidential medical information by the health facility or any prehospital emergency medical care personnel described in this section except as otherwise authorized by law.

In the event of the demise of the person afflicted with the reportable disease or condition, the health facility or county health officer shall notify the funeral director, charged with removing the decedent from the health facility, of the reportable disease prior to the release of the decedent from the health facility to the funeral director.

Notwithstanding Section 1798.206, violation of this section is not a misdemeanor.

SEC. 2. Section 120260.5 is added to the Health and Safety Code, to read:

120260.5. The communicable disease testing and notification procedures provided for in this chapter are in addition to the notification to which prehospital emergency medical care persons or personnel are entitled under Section 1797.188.

CHAPTER 103

An act to add Section 50.5 to Chapter 375 of the Statutes of 1986, relating to the Coast Life Support District.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 50.5 is added to Chapter 375 of the Statutes of 1986, to read:

Sec. 50.5. (a) The district's board of directors may charge a fee to cover the cost of any service that the district provides or the cost of enforcing any regulation for which the fee is charged. No fee shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged.

(b) Before imposing or increasing any fee for property-related services, the district's board of directors shall follow the procedures in Section 6 of Article XIII D of the California Constitution.

(c) The district's board of directors may charge residents or taxpayers of the district a fee authorized by this section that is less than the fee that it charges nonresidents or nontaxpayers.

(d) The district's board of directors may authorize the district's employees to waive the payment of a fee authorized by this section, in whole or in part, when the district's board of directors determines that payment would not be in the public interest. Before authorizing any waiver, the district's board of directors shall adopt a resolution that specifies the policies and procedures governing waivers.

SEC. 2. Due to the unique circumstances concerning the district the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, this act is necessarily applicable only to the district.

CHAPTER 104

An act to amend Section 11628 of the Insurance Code, relating to insurance.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 11628 of the Insurance Code is amended to read:

11628. (a) No admitted insurer, licensed to issue and issuing motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1 ½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted annually to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. That report shall include the insurer's statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination. However, the data shall be released in aggregate form by ZIP Code in order that no individual insurer's loss experience for any specific geographic area be revealed.

Differentiation in rates between geographical areas shall not constitute unfair discrimination.

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

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

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

(1) The reason for the excessive ratio.

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

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

Nothing in this section shall prohibit an insurer from:

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

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

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

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle's size, weight, design, or intended use.

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

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

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

(g) Any person subject to regulation by the commissioner pursuant to this code that fails to comply with a data call required by the department pursuant to subdivision (a) shall be liable to the state for a civil penalty in an amount not exceeding five thousand dollars ($5,000) for each 30-day period that the person is not in compliance, unless the failure to comply is willful, in which case the civil penalty shall be in an amount not to exceed ten thousand dollars ($10,000) for each 30-day period that the person is not in compliance, but not to exceed an aggregate amount of one hundred thousand dollars ($100,000). The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties shall be in addition to other penalties provided by law.

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

CHAPTER 105

An act to amend Section 1597.46 of the Health and Safety Code, relating to child day care.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 1597.46 of the Health and Safety Code is amended to read:

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors:

spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not fewer than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 106

An act to amend Sections 7017.3, 7068.1, 7072.5, and 7152 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 21, 2006. Filed with
Secretary of State July 21, 2006.]

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

SECTION 1. Section 7017.3 of the Business and Professions Code is amended to read:

7017.3. The Contractors' State License Board shall report annually to the Legislature, not later than October 1 of each year, the following statistical information for the prior fiscal year. The following data shall be reported on complaints filed with the board against licensed contractors, registered home improvement salespersons, and unlicensed persons acting as licensees or registrants:

(a) The number of complaints received by the board categorized by source, such as public, trade, profession, government agency, or board-initiated, and by type of complaint, such as licensee or nonlicensee.

(b) The number of complaints closed prior to referral for field investigation, categorized by the reason for the closure, such as settled, referred for mandatory arbitration, or referred for voluntary arbitration.

(c) The number of complaints referred for field investigation categorized by the type of complaint such as licensee or nonlicensee.

(d) The number of complaints closed after referral for field investigation categorized by the reason for the closure such as settled, referred for mandatory arbitration, or referred for voluntary arbitration.

(e) For the board's Intake/Mediation Center and the board's Investigation Center closures, respectively, the total number of complaints closed prior to a field investigation per consumer services representative, and the total number of complaints closed after referral for a field investigation per enforcement representative. Additionally, the board shall report the total number of complaints closed by other board staff during the year.

(f) The number of complaints pending at the end of the fiscal year grouped in 90-day increments, and the percentage of total complaints pending, represented by the number of complaints in each grouping.

(g) The number of citations issued to licensees categorized by the type of citation such as order of correction only or order of correction and fine and the number of citations issued to licensees that were vacated or withdrawn.

(h) The number of citations issued to nonlicensees and the number of these citations that were vacated or withdrawn.

(i) The number of complaints referred to a local prosecutor for criminal investigation or prosecution, the number of complaints referred to the Attorney General for the filing of an accusation, and the number of

complaints referred to both a local prosecutor and the Attorney General, categorized by type of complaint, such as licensee and nonlicensee.

(j) Actions taken by the board, including, but not limited to, the following:

(1) The number of disciplinary actions categorized by type, such as revocations or suspensions, categorized by whether the disciplinary action resulted from an accusation, failure to comply with a citation, or failure to comply with an arbitration award.

(2) The number of accusations dismissed or withdrawn.

(k) For subdivisions (g) and (j), the number of cases containing violations of Section 7121, 7121.5, and paragraph (5) of subdivision (a) of Section 7159.5 categorized by section.

(*l*) The number of interim suspension orders sought, the number of interim suspension orders granted, the number of temporary restraining orders sought, and the number of temporary restraining orders granted.

(m) The amount of cost recovery ordered and the amount collected.

(n) Case aging data, including data for each major stage of the enforcement process, including the following:

(1) The average number of days from the filing of a complaint to its closure by the board's Intake/Mediation Center prior to the referral for an investigation categorized by the type of complaint, such as licensee or nonlicensee.

(2) The average number of days from the referral of a complaint for an investigation to its closure by the Investigation Center categorized by the type of complaint, such as licensee or nonlicensee.

(3) The average number of days from the filing of a complaint to the referral of the completed investigation to the Attorney General.

(4) The average number of days from the referral of a completed investigation to the Attorney General to the filing of an accusation by the Attorney General.

(5) The average number of days from the filing of an accusation to the first hearing date or date of a stipulated settlement.

(6) The average number of days from the receipt of the Administrative Law Judge's proposed decision to the registrar's final decision.

SEC. 2. Section 7068.1 of the Business and Professions Code is amended to read:

7068.1. The person qualifying on behalf of an individual or firm under paragraph (1), (2), or (3) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control of his or her employer's or principal's construction operations as is necessary to secure full compliance with the provisions of this chapter and the rules and regulations of the board relating to the construction operations. This person shall not act in the capacity of the qualifying person for an

additional individual or firm unless one of the following conditions exists:

(a) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.

(b) The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

(c) With respect to a firm under paragraph (2) or (3) of subdivision (b) of Section 7068, the majority of the partners or officers are the same.

(d) Notwithstanding subdivisions (a), (b), and (c), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

"Firm," as used in this section, means a copartnership, a limited partnership, a corporation, or any other combination or organization described in Section 7068.

"Person," as used in this section, is limited to persons natural, notwithstanding the definition of "person" in Section 7025.

The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations.

SEC. 3. Section 7072.5 of the Business and Professions Code is amended to read:

7072.5. (a) Upon the issuance of a license, a plasticized pocket card of a size, design, and content as may be determined by the registrar shall be issued at no cost to each licensee, or to the partners or officers or responsible managing officer of licensees licensed as other than individuals, which card shall be evidence that the licensee is duly licensed pursuant to this chapter. All cards issued shall be surrendered upon the suspension, revocation, or denial of renewal of the license, and shall be mailed or delivered to the board within five days of the suspension, revocation, or denial.

(b) When any person to whom a card is issued terminates his or her position, office, or association with a licensee that is licensed as other than an individual, that person shall surrender his or her card to the licensee and within five days thereafter the card shall be mailed or delivered by the licensee to the board for cancellation.

SEC. 4. Section 7152 of the Business and Professions Code is amended to read:

7152. (a) "Home improvement salesperson" is a person employed by a home improvement contractor licensed under this chapter to solicit, sell, negotiate, or execute contracts for home improvements, for the sale,

installation or furnishing of home improvement goods or services, or of swimming pools, spas, or hot tubs.

(b) The following shall not be required to be registered as home improvement salespersons:

(1) An officer of record of a corporation licensed pursuant to this chapter.

(2) A general partner listed on the license record of a partnership licensed pursuant to this chapter.

(3) A qualifying person, as defined in Section 7068.

(4) A salesperson whose sales are all made pursuant to negotiations between the parties if the negotiations are initiated by the prospective buyer at or with a general merchandise retail establishment that operates from a fixed location where goods or services are offered for sale.

(5) A person who contacts the prospective buyer for the exclusive purpose of scheduling appointments for a registered home improvement salesperson.

(6) A bona fide service repairperson who is in the employ of a licensed contractor and whose repair or service call is limited to the service, repair, or emergency repair initially requested by the buyer of the service.

(c) The exemption to registration provided under paragraphs (1), (2), and (3) of subdivision (b) shall apply only to those individuals who, at the time of the sales transaction, are listed as personnel of record for the licensee responsible for soliciting, negotiating, or contracting for a service or improvement that is subject to regulation under this article.

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 107

An act to amend Section 854.1 of, and to add Section 854.2 to, the Financial Code, relating to real estate brokers.

[Approved by Governor July 21, 2006. Filed with Secretary of State July 21, 2006.]

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

SECTION 1. Section 854.1 of the Financial Code is amended to read:

854.1. Notwithstanding Section 10145 of the Business and Professions Code or any other provision of law, but subject to the limitations of Section 854, benefits accruing from the placement in a noninterest bearing account of a financial institution of funds received by a real estate broker who collects payments or provides services in connection with a loan secured by a lien on real property under subdivision (d) of Section 10131 or Section 10131.1 of the Business and Professions Code shall inure to the broker, unless otherwise agreed in writing by the broker and the lender or note owner on the loan. A borrower shall receive at least 2 percent simple interest per annum on impound account payments covered by Section 2954.8 of the Civil Code. For purposes of this section "financial institution" means any institution the business of which is engaging in financial activities as described in Section 1843 (k) of Title 12 of the United States Code.

SEC. 2. Section 854.2 is added to the Financial Code, to read:

854.2. (a) Notwithstanding Section 10145 of the Business and Professions Code or any other provision of law, benefits accruing from the placement in an interest bearing account of a financial institution of funds received by a real estate broker, as defined in Section 10131 of the Business and Professions Code, who collects payments or provides services for an institutional investor in connection with a loan secured by commercial real property may inure to the real estate broker, if agreed to in writing by the real estate broker and that institutional investor as to that loan.

(b) For purposes of this section, the following definitions shall apply:

(1) "Commercial real property" means real estate improved with other than a one-to-four family residence.

(2) "Financial institution" means any institution the business of which is engaging in financial activities as described in Section 1843(k) of Title 12 of the United States Code.

(3) "Institutional investor" has the meaning set forth in subdivision (i) of Section 50003.

CHAPTER 108

An act to add Section 32221.5 to the Education Code, relating to pupils.

[Approved by Governor July 21, 2006. Filed with
Secretary of State July 21, 2006.]

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

SECTION 1. Section 32221.5 is added to the Education Code, to read:

32221.5. (a) A school district that elects to operate an interscholastic athletic team or teams shall include the following statement, printed in boldface type of prominent size, in offers of insurance coverage that are sent to members of school athletic teams:

"Under state law, school districts are required to ensure that all members of school athletic teams have accidental injury insurance that covers medical and hospital expenses. This insurance requirement can be met by the school district offering insurance or other health benefits that cover medical and hospital expenses.

Some pupils may qualify to enroll in no-cost or low-cost local, state, or federally sponsored health insurance programs. Information about these programs may be obtained by calling _____ [Insert toll free telephone number]."

(b) The statement described in subdivision (a) shall also be incorporated into any other letters or printed materials, in boldface type of prominent size, that contain the name or logo, or both, of the school district and are sent to members of school athletic teams to inform them of the provisions of this article, or any other applicable provision of state law, regarding the provision of insurance protection.

(c) The statement described in subdivision (a) shall include the toll-free telephone number or numbers for any of the following:

(1) The Healthy Families Program.

(2) Medi-Cal.

(3) Any other comparable toll-free telephone number for a no-cost or low-cost local, state, or federally sponsored health insurance program.

(d) All notices regarding insurance protection for members of athletic teams that are sent to team members are required to be translated pursuant to Section 48985.

CHAPTER 109

An act to amend Section 25350.51 of the Government Code, relating to county property.

[Approved by Governor July 21, 2006. Filed with
Secretary of State July 21, 2006.]

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

SECTION 1. Section 25350.51 of the Government Code is amended to read:

25350.51. (a) The board may, by ordinance or resolution, delegate to the purchasing agent or other appropriate county official, subject to any rules and regulations as it may impose, the following authority:

(1) To lease real property for use by the county or to obtain the use of real property for the county by license for a term not to exceed five years and for a rental not to exceed seven thousand five hundred dollars ($7,500) per month.

(2) To amend real property leases or licenses for improvements or alterations, or both, with a total cost not to exceed seven thousand five hundred dollars ($7,500), provided that the amendment does not extend the term of the lease or license and that no more than two amendments, not to exceed seven thousand five hundred dollars ($7,500) each, are made within a 12-month period.

(b) Notice of intention to consummate the lease or license shall be posted in a public place for five working days prior to consummation of the lease or license. The notice shall describe the property proposed to be leased or licensed, the terms of the lease or license, and any county officer authorized to execute the lease or license.

CHAPTER 110

An act to add Section 19602.5 to the Government Code, relating to the Department of Motor Vehicles.

[Approved by Governor July 21, 2006. Filed with
Secretary of State July 21, 2006.]

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

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

(a) The State Personnel Board and the Department of Motor Vehicles entered into a demonstration project that was designed to study alternative to traditional methods of examining, selecting, appointing, and promoting managerial and designated supervisory employees of the Department of Motor Vehicles.

(b) The alternative selection procedures that have been implemented as part of the demonstration project have improved the ability of the Department of Motor Vehicles to match candidates and managerial or supervisory jobs, at the same time resulting in an expedited selection process.

(c) Based on the success of the demonstration project, it is the intent of the Legislature to make permanent the alternative methods, as utilized in the selection demonstration project, of examining, selecting, appointing, and promoting employees of the Department of Motor Vehicles to managerial and supervisory classifications as agreed to by the Department of Motor Vehicles and the State Personnel Board.

SEC. 2. Section 19602.5 is added to the Government Code, to read:

19602.5. (a) Notwithstanding Section 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, or 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 Department of Motor Vehicles appointing authority may conduct examinations and make appointments, as specified by this section. The purpose of this section is to provide the Department of Motor Vehicles with greater flexibility to match candidates and managerial or supervisory jobs, at the same time resulting in an expedited selection process and cost savings to the department.

(b) The Department of Motor Vehicles appointing authority may conduct competitive examinations on a position-by-position basis for specified managerial classifications and supervisory classifications as agreed to by the board in the manner described in Article 7 (commencing with Section 549.80) of Subchapter 4 of Chapter 1 of Division 1 of Title 2 of the California Code of Regulations in effect on June 27, 2001, or in any other manner approved by the board. In its exercise of authority under this subdivision pursuant to that article, the Department of Motor Vehicles 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.

CHAPTER 111

An act to amend Section 130140 of the Health and Safety Code, relating to child development.

[Approved by Governor July 21, 2006. Filed with
Secretary of State July 21, 2006.]

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

SECTION 1. Section 130140 of the Health and Safety Code is amended to read:

130140. Any county or counties developing, adopting, promoting, and implementing local early childhood development programs consistent with the goals and objectives of this act shall receive moneys pursuant to paragraph (2) of subdivision (d) of Section 130105 in accordance with the following provisions:

(a) For the period between January 1, 1999, and June 30, 2000, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the entire number of births recorded in California (for the same period), provided that each of the following requirements has first been satisfied:

(1) The county's board of supervisors has adopted an ordinance containing the following minimum provisions:

(A) The establishment of a county children and families commission. The county commission shall be appointed by the board of supervisors and shall consist of at least five but not more than nine members.

(i) Two members of the county commission shall be from among the county health officer and persons responsible for management of the following county functions: children's services, public health services, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services.

(ii) One member of the county commission shall be a member of the board of supervisors.

(iii) The remaining members of the county commission shall be from among the persons described in clause (i) and persons from the following categories: recipients of project services included in the county strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, or a local child care coordinating group; representatives of a local organization for prevention or early intervention for families at risk; representatives of community-based organizations that have the goal of promoting nurturing and early childhood development; representatives of local school districts; and representatives of local medical, pediatric, or obstetric associations or societies.

(B) The manner of appointment, selection, or removal of members of the county commission, the duration and number of terms county commission members shall serve, and any other matters that the board of supervisors deems necessary or convenient for the conduct of the county commission's activities, provided that members of the county commission shall not be compensated for their services, except they shall be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities as authorized by the county commission.

(C) The requirement that the county commission adopt an adequate and complete county strategic plan for the support and improvement of early childhood development within the county.

(i) The county strategic plan shall be consistent with, and in furtherance of the purposes of, this act and any guidelines adopted by the state commission pursuant to subdivision (b) of Section 130125 that are in effect at the time the plan is adopted.

(ii) The county strategic plan shall, at a minimum, include the following: a description of the goals and objectives proposed to be attained; a description of the programs, services, and projects proposed to be provided, sponsored, or facilitated; and a description of how measurable outcomes of such programs, services, and projects will be determined by the county commission using appropriate reliable indicators. No county strategic plan shall be deemed adequate or complete until and unless the plan describes how programs, services, and projects relating to early childhood development within the county will be integrated into a consumer-oriented and easily accessible system.

(iii) The county commission shall, on at least an annual basis, be required to review its county strategic plan and to revise the plan as may be necessary or appropriate.

(iv) The county commission shall measure the outcomes of county funded programs through the use of applicable, reliable indicators and review that information on a periodic basis as part of the public review of its county strategic plan.

(D) The requirement that the county commission conduct at least one public hearing on its proposed county strategic plan before the plan is adopted.

(E) The requirement that the county commission conduct at least one public hearing on its periodic review of the county strategic plan before any revisions to the plan are adopted.

(F) The requirement that the county commission submit its adopted county strategic plan, and any subsequent revisions thereto, to the state commission.

(G) The requirement that the county commission prepare and adopt an annual audit and report pursuant to Section 130150. The county commission shall conduct at least one public hearing prior to adopting any annual audit and report.

(H) The requirement that the county commission conduct at least one public hearing on each annual report by the state commission prepared pursuant to subdivision (b) of Section 130150.

(I) Two or more counties may form a joint county commission, adopt a joint county strategic plan, or implement joint programs, services, or projects.

(2) The county's board of supervisors has established a county commission and has appointed a majority of its members.

(3) The county has established a local Children and Families Trust Fund pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(b) Notwithstanding any provision of this act to the contrary, no moneys made available to county commissions under subdivision (a) shall be expended to provide, sponsor, or facilitate any programs, services, or projects for early childhood development until and unless the county commission has first adopted an adequate and complete county strategic plan that contains the provisions required by clause (ii) of subparagraph (C) of paragraph (1) of subdivision (a).

(c) In the event that any county elects not to participate in the California Children and Families Program, the moneys remaining in the California Children and Families Trust Fund shall be reallocated and reappropriated to participating counties in the following fiscal year.

(d) For the fiscal year commencing on July 1, 2000, and for each fiscal year thereafter, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the number of births recorded in all of the counties participating in the California Children and Families Program (for the same period), provided that each of the following requirements has first been satisfied:

(1) The county commission has, after the required public hearings, adopted an adequate and complete county strategic plan conforming to the requirements of subparagraph (C) of paragraph (1) of subdivision (a), and has submitted the plan to the state commission.

(2) The county commission has conducted the required public hearings, and has prepared and submitted all audits and reports required pursuant to Section 130150.

(3) The county commission has conducted the required public hearings on the state commission annual reports prepared pursuant to subdivision (b) of Section 130150.

(4) The county commission, in a public hearing, has adopted policies that are consistent with the following state laws:

(A) With regard to conflict of interest of the commission members, the county commission's policies shall be consistent with Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, and Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code.

(B) With regard to contracting and procurement, the county commission's policies shall be consistent with Article 7 (commencing with Section 54201) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, Chapter 2 (commencing with Section 2000) of Part 1 of Division 2 of the Public Contract Code, Section 3410 of the Public Contract Code, and Chapter 3.5 (commencing with Section 22150) of Part 3 of Division 2 of the Public Contract Code.

(5) The county commission, in a public hearing, has adopted a limit on the percentage of the county commission's operating budget that may be spent on administrative functions, pursuant to guidelines issued by the state commission that define administrative functions.

(6) The county commission has adopted, in a public hearing, policies and processes establishing the salaries and benefits of employees of the county commission. Salaries and benefits shall conform with established county commission or county government policies.

(e) In the event that any county elects not to continue participation in the California Children and Families Program, any unencumbered and unexpended moneys remaining in the local Children and Families Trust Fund shall be returned to the California Children and Families Trust Fund for reallocation and reappropriation to participating counties in the following fiscal year.

(f) For purposes of this section, "relevant county" means the county in which the mother of the child whose birth is being recorded resides.

SEC. 2. The Legislature finds and declares that this act furthers the California Children and Families Act of 1998 enacted by Proposition 10 at the November 3, 1998, general election, and is consistent with its purposes.

CHAPTER 112

An act to amend Section 1063.75 of the Insurance Code, relating to workers' compensation insurance.

[Approved by Governor July 21, 2006. Filed with
Secretary of State July 21, 2006.]

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

SECTION 1. Section 1063.75 of the Insurance Code is amended to read:

1063.75. Any bonds issued to provide funds for covered claim obligations for workers' compensation claims shall be issued prior to January 1, 2009, in an aggregate principal amount outstanding at any one time not to exceed $1.5 billion, and any bonds issued or issued to refund bonds shall not have a final maturity exceeding 20 years from the date of issuance. The bonds shall be issued at the request of CIGA, shall be in the form, shall bear the date or dates, and shall mature at the time or times as the indenture authorized by the request may provide. The bonds may be issued in one or more series, as serial bonds or as term bonds, or as a combination thereof, and, notwithstanding any other provision of law, the amount of principal of, or interest on, bonds maturing at each date of maturity need not be equal. The bonds shall bear interest at the rate or rates, variable or fixed or a combination thereof, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place or places within or without the state, be subject to the terms of redemption, contain the terms and conditions, and be secured by the covenants as the indenture may provide. The indenture may provide for the proceeds of the bonds and funds securing the bonds to be invested in any securities and investments, including investment agreements, as specified therein. CIGA may enter into or authorize any ancillary obligations or derivative agreements as it determines necessary or desirable to manage interest rate risk or security features related to the bonds. The bonds shall be sold at public or private sale by the Treasurer at, above, or below the principal amount thereof, on the terms and conditions and for the consideration in the medium of payment that the Treasurer shall determine prior to the sale.

CHAPTER 113

An act to amend Sections 33030 and 33320.1 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 33030 of the Health and Safety Code is amended to read:

33030. (a) It is found and declared that there exist in many communities blighted areas which constitute physical and economic liabilities, requiring redevelopment in the interest of the health, safety, and general welfare of the people of these communities and of the state.

(b) A blighted area is one that contains both of the following:

(1) An area that is predominantly urbanized, as that term is defined in Section 33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(2) An area that is characterized by one or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.

(c) A blighted area also may be one that contains the conditions described in subdivision (b) and is, in addition, characterized by the existence of inadequate public improvements, parking facilities, or utilities.

SEC. 2. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. (a) "Project area" means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area is either of the following:

(1) Has been or is developed for urban uses.

(2) Is an integral part of one or more areas developed for urban uses that are surrounded or substantially surrounded by parcels that have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed adjacent for the purpose of this subdivision.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner that is either consistent with zoning or is otherwise permitted under law.

(d) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area that is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

CHAPTER 114

An act to amend Section 7159 of, and to add Section 7159.9 to, the Business and Professions Code, relating to contractors.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 7159 of the Business and Professions Code is amended to read:

7159. (a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, provided the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1, provided all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars ($500), and the licensee complies with the requirements set forth in Section 7159.9.

(4) This section does not apply to any costs associated with monitoring a burglar or fire alarm system.

(5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, "home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500). "Home improvement contract" also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer's receipt of the copy of the contract initiates the buyer's rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The name and address of the contractor to which the applicable "Notice of Cancellation" is to be mailed, immediately preceded by a

statement advising the buyer that the "Notice of Cancellation" may be sent to the contractor at the address noted on the contract.

(4) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract and any changes to the contract, shall be in writing and signed by the parties to the contract prior to the commencement of any work covered by the contract or applicable change order, and shall include or comply with all of the following:

(1) The name, business address, and license number of the contractor.

(2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.

(3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: "Home Improvement."

(4) The following statement in at least 12-point boldface type: "You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started."

(5) The heading: "Contract Price," followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: "Finance Charge," followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) The heading: "Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed," followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools,

the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(8) If a down payment will be charged, the details of the down payment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):

(A) The heading: "Down Payment."

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:

"THE DOWN PAYMENT MAY NOT EXCEED $1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS."

(9) If any payments, other than the downpayment, is to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following form, and shall include the text of the statement as specified in subparagraph (C):

(A) A schedule of progress payments shall be preceded by the heading: "Schedule of Progress Payments."

(B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and any materials and equipment to be supplied.

(C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

"The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT."

(10) The contract shall address the commencement of work to be performed in substantially the following form:

(A) A statement that describes what constitutes substantial commencement of work under the contract.

(B) The heading: "Approximate Start Date."

(C) The approximate date on which work will be commenced.

(11) The estimated completion date of the work shall be referenced in the contract in substantially the following form:

(A) The heading: "Approximate Completion Date."

(B) The approximate date of completion.

(12) If applicable, the heading: "List of Documents to be Incorporated into the Contract," followed by the list of documents incorporated into the contract.

(13) The heading: "Note about Extra Work and Change Orders," followed by the following statement:

"Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of any work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments."

(e) All of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

(1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the following statement: "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)," followed by whichever of the following statements is both relevant and correct:

(A) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."

(B) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call the (insurance company) at _____ to check the contractor's insurance coverage."

(C) "(The name on the license or 'This contractor') is self-insured."

(2) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement: "A notice concerning workers' compensation insurance is attached to this contract." The notice shall include the heading "Workers' Compensation Insurance" followed by whichever of the following statements is correct:

(A) "(The name on the license or 'This contractor') has no employees and is exempt from workers' compensation requirements."

(B) "(The name on the license or 'This contractor') carries workers' compensation insurance for all employees."

(3) A notice that provides the buyer with the following information about the performance of extra or change-order work:

(A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of any work covered by the new change order.

(B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies

all of the following in writing prior to the commencement of any work covered by the new change order:

(i) The scope of work encompassed by the order.

(ii) The amount to be added or subtracted from the contract.

(iii) The effect the order will make in the progress payments or the completion date.

(C) A statement informing the buyer that the contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(4) A notice with the heading "Mechanics' Lien Warning" written as follows:

"MECHANICS LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a

Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe."

(5) The following notice shall be provided in at least 12-point typeface: "Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (8).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) "Three-Day Right to Cancel

"You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(C) The "Three-Day Right to Cancel" notice required by this paragraph shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Three-Day Right to Cancel.'"

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

_____

(Date)

"You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your

cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

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 seller/
at_____
/address of seller's place of business/
not later than midnight of_____.
(Date)

I hereby cancel this transaction. _____
(Date)

_____
(Buyer's signature)

(7) (A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

"Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) The "Seven-Day Right to Cancel" notice required by this subdivision shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Seven-Day Right to Cancel."'

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

_____

(Date)

"You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your

cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

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 seller/
at_____
/address of seller's place of business/
not later than midnight of_____.
(Date)

I hereby cancel this transaction. _____
(Date)

_____
(Buyer's signature)

SEC. 2 Section 7159.9 is added to the Business and Professions Code, to read:

7159.9. (a) The provisions of Section 7159 do not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1 of the Alarm Company Act, provided the licensee does all of the following:

(1) Complies with the contract requirements set forth in Section 7599.54.

(2) Complies with Sections 1689.5, 1689.6 and 1689.7 of the Civil Code, as applicable.

(3) Executes the following certification statement in the contract or in a separate certification document signed by all parties to the contract:

"All costs attributable to making the fire alarm system operable for the residence identified by this document, including sale and installation costs, do not exceed five hundred dollars ($500)."

(4) Certifies to the following if the certification statement described in paragraph (3) is in a separate document:

"I certify that all statements and representations made by me in this document are true and accurate."

(b) The contract or separate certification document shall also include both of the following:

(1) The physical address of the residence for which the certification is applicable.

(2) The name, business address, and license number of the contractor as contained in the official records of the board.

(c) The licensee shall give an exact copy of all documents required pursuant to this section to the party who is contracting to have the alarm system installed.

(d) All documents required pursuant to this section shall be retained by the licensee for a period of five years in accordance with the provisions of Section 7111, and shall be made available to the board within 30 days of a written request.

(e) Failure by the contractor to provide the board with the certification or contract within 30 days of a written request is cause for discipline.

(f) Failure by the licensee to provide the board with the certification or contract within 30 days of a written request creates a presumption that the licensee has violated the provisions of Section 7159, unless evidence to the contrary is presented within the timeframe specified by the board.

CHAPTER 115

An act to amend Section 3702.2 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 3702.2 of the Labor Code is amended to read:

3702.2. (a) All self-insured employers shall file a self-insurer's annual report in a form prescribed by the director.

(b) To enable the director to determine the amount of the security deposit required by subdivision (c) of Section 3701, the annual report of a self-insured employer who has self-insured both state and federal workers' compensation liability shall also set forth (1) the amount of all

compensation liability incurred, paid-to-date, and estimated future liability under both this chapter and under the federal Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), and (2) the identity and the amount of the security deposit securing the employer's liability under state and federal self-insured programs.

(c) The director shall annually prepare an aggregated summary of all self-insured employer liability to pay compensation reported on the self-insurers' employers annual reports, including a separate summary for public and private employer self-insurers. The summaries shall be in the same format as the individual self-insured employers are required to report that liability on the employer self-insurer's annual report forms prescribed by the director. The aggregated summaries shall be made available to the public on the self-insurance section of the department's Internet Web site. Nothing in this subdivision shall authorize the director to release or make available information that is aggregated by industry or business type, that identifies individual self-insured filers, or that includes any individually identifiable claimant information.

(d) The director may release a copy, or make available an electronic version, of the data contained in any public sector employer self-insurer's annual reports received from an individual public entity self-insurer or from a joint powers authority employer and its membership. However, the release of any annual report information by the director shall not include any portion of any listing of open indemnity claims that contains individually identifiable claimant information, or any portion of excess insurance coverage information that contains any individually identifiable claimant information.

CHAPTER 116

An act to amend Sections 5007, 9105, 22511.55, and 22511.59 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 5007 of the Vehicle Code is amended to read:

5007. (a) The department shall, upon application and without additional fees, issue a special license plate or plates to a disabled person or disabled veteran, pursuant to procedures adopted by the department.

(b) The special license plates issued to a disabled person or disabled veteran shall run in a regular numerical series that shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol" shall be depicted on each plate.

(c) (1) Prior to issuing a special license plate to a disabled person or disabled veteran the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, or physician assistant, substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of a person who has lost, or has lost use of, one or more lower extremities or one hand, for a disabled veteran, or both hands for a disabled person, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of an applicant shall be certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist. The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department.

(2) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(d) A disabled person or disabled veteran issued a license plate or plates under this section shall, upon request, present to a peace officer, or person authorized to enforce parking laws, ordinances, or regulations, a certification form that substantiates the eligibility of the disabled person or veteran to possess the plate or plates. The certification shall be on a form prescribed by the department and contain the name of the disabled person or disabled veteran to whom the plate or plates were issued, and the name, address, and telephone number of the medical professional described in subdivision (c) who certified the eligibility of the person or veteran for the plate or plates.

(e) The special license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

SEC. 2. Section 9105 of the Vehicle Code is amended to read:

9105. (a) The fees specified in this code, except fees for duplicate plates, certificates, or cards, need not be paid for any of the following vehicles, that are of a type subject to registration under this code, and that are not used for transportation for hire, compensation, or profit, when owned by a former American prisoner of war, a disabled veteran, or a Congressional Medal of Honor recipient:

(1) A passenger motor vehicle.

(2) A motorcycle.

(3) A commercial motor vehicle of less than 8,001 pounds unladen weight.

(b) The exemption granted by subdivision (a) shall not extend to more than one vehicle owned by a former American prisoner of war, a disabled veteran, or a Congressional Medal of Honor recipient and is applicable to the same vehicle as described in subdivision (b) of Section 10783 of the Revenue and Taxation Code.

(c) (1) The department may require a disabled veteran applying for an exemption under this section to submit a certificate signed by a physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist, substantiating the disability.

(2) The department may require a person applying for an exemption under this section for either of the following reasons to do any of the following:

(A) By reason of the person's status as a former prisoner of war, to show, by satisfactory proof, his or her former prisoner-of-war status.

(B) By reason of the person's status of receiving the Congressional Medal of Honor, to show, by satisfactory proof, that he or she is a Congressional Medal of Honor recipient.

SEC. 3. Section 22511.55 of the Vehicle Code is amended to read:

22511.55. (a) (1) A disabled person or disabled veteran may apply to the department for the issuance of a distinguishing placard. The placard may be used in lieu of the special license plate or plates issued under Section 5007 for parking purposes described in Section 22511.5 when suspended from the rearview mirror or, if there is no rearview mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size, shape, and color determined by the department and shall bear the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol." The department shall incorporate instructions for

the lawful use of a placard, and a summary of the penalties for the unlawful use of a placard, into the identification card issued to the placard owner.

(2) (A) The department may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. A portion of the placard shall be printed in a contrasting color that shall be changed every two years. The size and color of this contrasting portion of the placard shall be large and distinctive enough to be readily identifiable by a law enforcement officer in a passing vehicle.

(B) As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

(C) Prior to the end of each year, the department shall, for the most current three years available, compare its record of disability placards issued against the records of the Bureau of Vital Statistics of the State Department of Health Services, or its successor, and withhold any renewal notices that otherwise would have been sent, for a placardholder identified as deceased.

(3) Except as provided in paragraph (4), a person is not eligible for more than one placard at a time.

(4) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(b) (1) Prior to issuing an original distinguishing placard to a disabled person or disabled veteran, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, or physician assistant, substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of a person who has lost, or has lost use of, one or more lower extremities or one hand, for a disabled veteran, or both hands, for a disabled person, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of an applicant shall be certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist. The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department.

(2) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a

certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(3) The department shall maintain in its records all information on an applicant's certification of permanent disability and shall make that information available to eligible law enforcement or parking control agencies upon a request pursuant to Section 22511.58.

(c) A person who is issued a distinguishing placard pursuant to subdivision (a) may apply to the department for a substitute placard without recertification of eligibility, if that placard is lost or stolen.

(d) The distinguishing placard shall be returned to the department not later than 60 days after the death of the disabled person or disabled veteran to whom the placard was issued.

(e) The department shall print on any distinguishing placard issued on or after January 1, 2005, the maximum penalty that may be imposed for a violation of Section 4461. For the purposes of this subdivision, the "maximum penalty" is the amount derived from adding all of the following:

(1) The maximum fine that may be imposed under Section 4461.

(2) The penalty required to be imposed under Section 70372 of the Government Code.

(3) The penalty required to be levied under Section 76000 of the Government Code.

(4) The penalty required to be levied under Section 1464 of the Penal Code.

(5) The surcharge required to be levied under Section 1465.7 of the Penal Code.

(6) The penalty authorized to be imposed under Section 4461.3.

SEC. 4. Section 22511.59 of the Vehicle Code is amended to read:

22511.59. (a) Upon the receipt of the applications and documents required by subdivision (b), (c), or (d), the department shall issue a temporary distinguishing placard bearing the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol." During the period for which it is valid, the temporary distinguishing placard may be used for the parking purposes described in Section 22511.5 in the same manner as a distinguishing placard issued pursuant to Section 22511.55.

(b) (1) A person who is temporarily disabled for a period of not more than six months may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the submission of a certificate signed by a

physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist, as described in subdivision (b) of Section 22511.55, substantiating the temporary disability and stating the date upon which the disability is expected to terminate.

(3) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(4) A placard issued pursuant to this subdivision shall expire not later than 180 days from the date of issuance or upon the expected termination date of the disability, as stated on the certificate required by paragraph (2), whichever is less.

(5) The fee for a temporary placard issued pursuant to this subdivision shall be six dollars ($6).

(c) (1) A permanently disabled person or disabled veteran who is not a resident of this state and plans to travel within the state may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require certification of the disability, as described in subdivision (b) of Section 22511.55.

(3) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(4) A placard issued pursuant to this subdivision shall expire not later than 90 days from the date of issuance.

(5) The department shall not charge a fee for issuance of a placard under this subdivision.

(d) (1) A permanently disabled person or disabled veteran who has been issued either a distinguishing placard pursuant to Section 22511.55 or special license plates pursuant to Section 5007, but not both, may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a) for the purpose of travel.

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the applicant to submit either the number

identifying the distinguishing placard issued pursuant to Section 22511.55 or the number on the special license plates.

(3) A placard issued pursuant to this subdivision shall expire not later than 30 days from the date of issuance.

(4) The department shall not charge a fee for issuance of a placard under this subdivision.

(e) The department shall print on a temporary distinguishing placard, the maximum penalty that may be imposed for a violation of Section 4461. For the purposes of this subdivision, the "maximum penalty" is the amount derived from adding all of the following:

(1) The maximum fine that may be imposed under Section 4461.

(2) The penalty required to be imposed under Section 70372 of the Government Code.

(3) The penalty required to be levied under Section 76000 of the Government Code.

(4) The penalty required to be levied under Section 1464 of the Penal Code.

(5) The surcharge required to be levied under Section 1465.7 of the Penal Code.

(6) The penalty authorized to be imposed under Section 4461.3.

CHAPTER 117

An act to amend Sections 31485.7, 31485.8, 31486.2, and 31489, and to add Sections 31486.35 and 31490.6 to, the Government Code, relating to county employees' retirement.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 31485.7 of the Government Code is amended to read:

31485.7. (a) Notwithstanding any other contrary provision of this chapter, a member who elects to purchase retirement service credit under Section 31486.3, 31486.35, 31499.3, 31499.13, 31641.1, 31641.5, 31646, 31652, or 31658, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

(b) This section is not operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 2. Section 31485.8 of the Government Code is amended to read:

31485.8. (a) Notwithstanding any other contrary provision of this chapter, a member who elects to purchase retirement service credit under Section 31490.5, 31490.6, 31494.3, 31494.5, 31641.1, 31641.5, 31646, 31652, or 31658, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

(b) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 3. Section 31486.2 of the Government Code is amended to read:

31486.2. (a) (1) Except as otherwise provided in Section 31486.3 or 31486.35, there shall be no general members' contributions under the plan created by this article.

(2) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. A refund under this section shall be payable to the member.

(3) A member who has five or more years of county service as defined in subdivision (g) of Section 31486.1 may elect to leave his or her contributions on deposit for service retirement benefits only.

(b) (1) Except as provided in Sections 31486.3 and 31486.9 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and may not receive credit for that prior public service.

(2) Absence from work without pay may not be considered as breaking the continuity of service.

SEC. 4. Section 31486.35 is added to the Government Code, to read:

31486.35. (a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military

service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in a county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

SEC. 5. Section 31489 of the Government Code is amended to read:

31489. (a) Except as otherwise provided in Section 31490.5 or 31490.6, there shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. A refund under this section shall be payable to the member.

SEC. 6. Section 31490.6 is added to the Government Code, to read:

31490.6. (a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to

receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative until the board of supervisors, by resolution adopted by majority vote, makes this section operative in the county.

CHAPTER 118

An act to amend Sections 20475, 20479, 20502, 20636, 20890.1, 20938, 21117, 21118, 21150, 21156, 21225, 21226, 21227, 21229, 21354.3, 21354.4, 21354.5, and 75606 of the Government Code, relating to public employees' retirement.

[Approved by Governor July 24, 2006. Filed with
Secretary of State July 24, 2006.]

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

SECTION 1. Section 20475 of the Government Code is amended to read:

20475. Notwithstanding Section 20474, a contracting agency may amend its contract or previous amendments to its contract, without election among its employees, to reduce benefits, to terminate provisions that are available only by election of the agency to become subject thereto, to provide different benefits or provisions or to provide a combination of those changes with respect to service performed after the effective date of the contract amendment made pursuant to this section, if the contracting agency has fully discharged all of the obligations imposed by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 with respect to the contract amendments, and if the amendment provides that:

(a) The contract amendments apply uniformly with respect to all members within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, local sheriffs, or all local safety members other than local police officers, local firefighters, county peace officers, or local sheriffs.

(b) A member shall be subject to the contract as amended only if, after the effective date of the contract amendment, the member either (1) receives service credit for the first time within a classification, or (2) the member returns to service within a classification following termination of membership as provided for in subdivision (b) of Section 20340 unless the member has redeposited or elects prior to 90 days after returning to service to redeposit contributions pursuant to Section 20750, in which case the member shall not be subject to the contract amendment.

Amendments to the contract and amendments of previous amendments to the contract may be effected pursuant to this section only once during any three-year period with respect to each of the classifications.

SEC. 2. Section 20479 of the Government Code is amended to read:

20479. Notwithstanding any other provision of law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, no contract or contract amendment shall be made to provide retirement benefits for some, but not all members of the following membership classifications: local miscellaneous members, local police officers, local firefighters, county peace officer, local sheriff, or local safety officers.

No contract or contract amendments shall provide different retirement benefits for a subgroup, including, but not limited to, bargaining units or unrepresented groups, within those membership classifications.

This section does not preclude changing membership classification from one membership classification to another membership classification or exclusion of groups of members by contract.

For purposes of this section, the term "benefit" shall not be limited to the benefits set forth in Section 20020.

SEC. 3. Section 20502 of the Government Code is amended to read:

20502. The contract shall include in this system all firefighters, police officers, county peace officers, local sheriffs, and other employees of the contracting agency, except as exclusions in addition to the exclusions applicable to state employees may be agreed to by the agency and the board. The contract shall not provide for the exclusion of some, but not all, firefighters, police officers, county peace officers, or local sheriffs. The exclusions of employees, other than firefighters, police officers, county peace officers, or local sheriffs, shall be based on groups of employees such as departments or duties, and not on individual employees. The exclusions of groups may be made by amendments to contracts, with respect to future entrants into the group. The board may disapprove the exclusion of a group, if in its opinion the exclusion adversely affects the interest of this system. Membership in this system is compulsory for all employees included under a contract. This section shall not be construed to supersede Sections 20303 and 20305.

SEC. 4. Section 20636 of the Government Code is amended to read:

20636. (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(A) Participation in a deferred compensation plan.

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) The computation for a leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(4) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of a service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, is not special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 et seq. of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work related grouping. One employee may not be considered a group or class.

(2) Increases in compensation earnable granted to an employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with, or in anticipation of, a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) (1) Notwithstanding subdivision (a), "compensation earnable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the payrate and special compensation of the member. The computation for an absence of a member shall be based on the compensation earnable by him or her at the beginning of the absence and for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in that state service.

(2) Notwithstanding subdivision (b), "payrate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work because of holidays, sick leave,

vacation, compensating time off, or leave of absence. "Payrate" for state members shall include:

(A) An amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) A payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan that meets the requirements of Section 403(b) of Title 26 of the United States Code.

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of Title 26 of the United States Code.

(D) Disability or workers' compensation payments to safety members in accordance with Section 4800 of the Labor Code.

(E) Temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

(F) Other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished to a member by his or her employer in payment for the member's services.

(B) Compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20632.

(D) Other payments the board may determine to be within "special compensation."

(4) Neither "payrate" nor "special compensation" for state members includes any of the following:

(A) The provision by the state employer of a medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), a contribution by the employer to meet the premium or charge for that

plan, or a payment into a private fund to provide health and welfare benefits for employees.

(B) A payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of Title 26 of the United States Code.

(D) Benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts deducted from a member's wages for participation in a deferred compensation plan may not be considered to be "employer payments."

(F) Payments for unused vacation, annual leave, personal leave, sick leave, or compensating time off, whether paid in lump sum or otherwise.

(G) Final settlement pay.

(H) Payments for overtime, including pay in lieu of vacation or holiday.

(I) Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member's regular work shift.

(J) Amounts not available for payment of salaries and which are applied by the employer for any of the following:

(i) The purchase of a retirement plan which meets the requirements of Section 401(k) of Title 26 of the United States Code.

(ii) Payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of Title 26 of the United States Code.

(K) Payments made by the employer to or on behalf of its employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed the employee's salary.

(L) Other payments the board may determine are not "payrate" or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, 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, those provisions may

not become effective unless approved by the Legislature in the annual Budget Act. No memorandum of understanding reached pursuant to Section 3517.5 or 3560 may exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Personnel Administration or the Trustees of the California State University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) of this subdivision prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for a managerial employee, as defined in Section 3562, or supervisory employee as defined in Section 3580.3.

SEC. 5. Section 20890.1 of the Government Code is amended to read:

20890.1. Past county peace officer service shall be converted to local sheriff service if all of the following apply to the past service:

(a) It was rendered in a position that has subsequently been reclassified as a local sheriff position according to the provisions of Section 20432, 20432.5, or 20432.6.

(b) It was rendered by a current employee of the same agency for which the county peace officer service was performed.

(c) It is credited to an employee who has other local sheriff service credit for service performed with the agency.

SEC. 6. Section 20938 of the Government Code is amended to read:

20938. Notwithstanding any other provision of this part, credit for prior service shall be granted only to each person who was employed by a contracting agency on the effective date of the agency's contract or amendment to the contract under which that prior service is granted.

This section shall not apply to a contracting agency nor to the employees of a contracting agency, unless the agency elects to be subject to this section by express provision in the contract making the contracting agency subject to this section.

SEC. 7. Section 21117 of the Government Code is amended to read:

21117. A state miscellaneous member or industrial member, other than a university member, shall be partially retired for service upon his or her written application to the board if he or she has elected to participate in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6, provided he or she is credited with 20 years of state service and has attained the applicable normal retirement age as prescribed by regulations of the board.

SEC. 8. Section 21118 of the Government Code is amended to read:

21118. (a) A local member shall be partially retired for service upon his or her written application to the board if he or she has elected to participate in partial service retirement pursuant to Sections 21110 through 21115, provided, he or she is credited with 20 years of state service and has attained the applicable normal retirement age as prescribed by regulations of the board.

(b) This section shall not apply to a contracting agency or its employees until the contracting agency elects to be subject to it by amendment to its contract made in a manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 9. Section 21150 of the Government Code is amended to read:

21150. (a) A member incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he or she is credited with five years of state service, regardless of age, unless the person has elected to become subject to Section 21076 or Section 21077.

(b) A member subject to Section 21076 or Section 21077 who becomes incapacitated for the performance of duty shall be retired for

disability pursuant to this chapter if he or she is credited with 10 years of state service, regardless of age, except that a member may retire for disability if he or she had five years of state service prior to January 1, 1985.

(c) For purposes of this section, "state service" includes service to the state that the member, pursuant to Section 20281.5, did not receive credit.

SEC. 10. Section 21156 of the Government Code is amended to read:

21156. If the medical examination and other available information show to the satisfaction of the board, or in case of a local safety member, other than a school safety member, the governing body of the contracting agency employing the member, that the member in the state service is incapacitated physically or mentally for the performance of his or her duties and is eligible to retire for disability, the board shall immediately retire him or her for disability, unless the member is qualified to be retired for service and applies therefor prior to the effective date of his or her retirement for disability or within 30 days after the member is notified of his or her eligibility for retirement on account of disability, in which event the board shall retire the member for service. The governing body of a contracting agency upon receipt of the request of the board pursuant to Section 21154 shall certify to the board its determination under this section that the member is or is not incapacitated. The local safety member may appeal the determination of the governing body. Appeal hearings shall be conducted by an administrative law judge of the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title.

SEC. 11. Section 21225 of the Government Code is amended to read:

21225. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a substitute in a position requiring certification qualifications, pursuant to Section 59007 or 59113 of the Education Code, at the California School for the Deaf or the California School for the Blind, if that service does not exceed a total for all employers of 960 hours in a fiscal year.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, if during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a

period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

SEC. 12. Section 21226 of the Government Code is amended to read:

21226. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a member of the academic staff of a California community college or of the University of California, if that service does not exceed a total for all employers of 960 hours in a fiscal year.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, if during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

SEC. 13. Section 21227 of the Government Code is amended to read:

21227. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a member of the academic staff of a California State University, if that service does not exceed, a total for all employers of 960 hours in a fiscal year or 50 percent of the hours the member was employed during the last fiscal year of service prior to retirement, whichever is less.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, if during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

SEC. 14. Section 21229 of the Government Code is amended to read:

21229. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system

upon appointment by a school employer or by the Trustees of the California State University either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing specialized work of limited duration, if that service does not exceed, in a fiscal year, a total of 960 hours for all employers. The retired person's rate of pay for this employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, if during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

SEC. 15. Section 21354.3 of the Government Code is amended to read:

21354.3. (a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 ¼	1.0125
50 ½	1.0250
50 ¾	1.0375
51	1.0500
51 ¼	1.0625
51 ½	1.0750

Age at Retirement	Fraction
51 ¾	1.0875
52	1.1000
52 ¼	1.1125
52 ½	1.1250
52 ¾	1.1375
53	1.1500
53 ¼	1.1625
53 ½	1.1750
53 ¾	1.1875
54	1.2000
54 ¼	1.2125
54 ½	1.2250
54 ¾	1.2375
55	1.2500
55 ¼	1.2625
55 ½	1.2750
55 ¾	1.2875
56	1.3000
56 ¼	1.3125
56 ½	1.3250
56 ¾	1.3375
57	1.3500
57 ¼	1.3625
57 ½	1.3750
57 ¾	1.3875
58	1.4000
58 ¼	1.4125
58 ½	1.4250
58 ¾	1.4375
59	1.4500
59 ¼	1.4625
59 ½	1.4750
59 ¾	1.4875
60 and over	1.5000

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all services of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not

to be subject to this subdivision or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, 21354.1, 21354.4, and 21354.5 with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 16. Section 21354.4 of the Government Code is amended to read:

21354.4. (a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 ¼	1.0125
50 ½	1.0250
50 ¾	1.0375
51	1.0500
51 ¼	1.0625
51 ½	1.0750
51 ¾	1.0875
52	1.1000
52 ¼	1.1125
52 ½	1.1250
52 ¾	1.1375

Age at Retirement	Fraction
53	1.1500
53 ¼	1.1625
53 ½	1.1750
53 ¾	1.1875
54	1.2000
54 ¼	1.2125
54 ½	1.2250
54 ¾	1.2375
55 and over	1.2500

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not to be subject to this subdivision or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, and 21354.1, with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 17. Section 21354.5 of the Government Code is amended to read:

21354.5. (a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior

service, except service in a category of membership other than that of a local miscellaneous member, with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 ¼	1.0175
50 ½	1.0350
50 ¾	1.0525
51	1.0700
51 ¼	1.0875
51 ½	1.1050
51 ¾	1.1225
52	1.1400
52 ¼	1.1575
52 ½	1.1750
52 ¾	1.1925
53	1.2100
53 ¼	1.2275
53 ½	1.2450
53 ¾	1.2625
54	1.2800
54 ¼	1.2975
54 ½	1.3150
54 ¾	1.3325
55 and over	1.3500

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and elects not to be subject to this subdivision or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, 21354.1, and 21354.4 with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local

miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 18. Section 75606 of the Government Code is amended to read:

75606. (a) A judge who has filed a declaration of candidacy for election or reelection to a judicial office may not withdraw his or her contributions under Section 75520 until after the election. If a judge is elected or reelected to a judicial office, he or she may not withdraw the contributions until that time as the judge has declined to accept the office or has ceased to hold the office to which he or she has been elected.

(b) A judge who has been appointed, commissioned, or nominated to a judicial office of this state may not withdraw his or her contributions under Section 75520 until the judge has declined to serve or terminated his or her service in the latter office.

CHAPTER 119

An act to amend Sections 4702 and 4706.5 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. It is the intent of the Legislature to clarify existing statutory requirements governing the payment of death benefits to the survivors of deceased employees under the workers' compensation system when the employee suffered a fatal injury.

SEC. 2. Section 4702 of the Labor Code is amended to read:

4702. (a) Except as otherwise provided in this section and Sections 4553, 4554, 4557, and 4558, and notwithstanding any amount of compensation paid or otherwise owing to the surviving dependent, personal representative, heir, or other person entitled to a deceased employee's accrued and unpaid compensation, the death benefit in cases of total dependency shall be as follows:

(1) In the case of two total dependents and regardless of the number of partial dependents, for injuries occurring before January 1, 1991, ninety-five thousand dollars ($95,000), for injuries occurring on or after

January 1, 1991, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1994, one hundred thirty-five thousand dollars ($135,000), for injuries occurring on or after July 1, 1996, one hundred forty-five thousand dollars ($145,000), and for injuries occurring on or after January 1, 2006, two hundred ninety thousand dollars ($290,000).

(2) In the case of one total dependent and one or more partial dependents, for injuries occurring before January 1, 1991, seventy thousand dollars ($70,000), for injuries occurring on or after January 1, 1991, ninety-five thousand dollars ($95,000), for injuries occurring on or after July 1, 1994, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1996, one hundred twenty-five thousand dollars ($125,000), and for injuries occurring on or after January 1, 2006, two hundred fifty thousand dollars ($250,000), plus four times the amount annually devoted to the support of the partial dependents, but not more than the following: for injuries occurring before January 1, 1991, a total of ninety-five thousand dollars ($95,000), for injuries occurring on or after January 1, 1991, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1994, one hundred twenty-five thousand dollars ($125,000), for injuries occurring on or after July 1, 1996, one hundred forty-five thousand dollars ($145,000), and for injuries occurring on or after January 1, 2006, two hundred ninety thousand dollars ($290,000).

(3) In the case of one total dependent and no partial dependents, for injuries occurring before January 1, 1991, seventy thousand dollars ($70,000), for injuries occurring on or after January 1, 1991, ninety-five thousand dollars ($95,000), for injuries occurring on or after July 1, 1994, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1996, one hundred twenty-five thousand dollars ($125,000), and for injuries occurring on or after January 1, 2006, two hundred fifty thousand dollars ($250,000).

(4) (A) In the case of no total dependents and one or more partial dependents, for injuries occurring before January 1, 1991, four times the amount annually devoted to the support of the partial dependents, but not more than seventy thousand dollars ($70,000), for injuries occurring on or after January 1, 1991, a total of ninety-five thousand dollars ($95,000), for injuries occurring on or after July 1, 1994, one hundred fifteen thousand dollars ($115,000), and for injuries occurring on or after July 1, 1996, but before January 1, 2006, one hundred twenty-five thousand dollars ($125,000).

(B) In the case of no total dependents and one or more partial dependents, eight times the amount annually devoted to the support of

the partial dependents, for injuries occurring on or after January 1, 2006, but not more than two hundred fifty thousand dollars ($250,000).

(5) In the case of three or more total dependents and regardless of the number of partial dependents, one hundred fifty thousand dollars ($150,000), for injuries occurring on or after July 1, 1994, one hundred sixty thousand dollars ($160,000), for injuries occurring on or after July 1, 1996, and three hundred twenty thousand dollars ($320,000), for injuries occurring on or after January 1, 2006.

(6) (A) In the case of a police officer who has no total dependents and no partial dependents, for injuries occurring on or after January 1, 2003, and prior to January 1, 2004, two hundred fifty thousand dollars ($250,000) to the estate of the deceased police officer.

(B) For injuries occurring on or after January 1, 2004, in the case of no total dependents and no partial dependents, two hundred fifty thousand dollars ($250,000) to the estate of the deceased employee.

(b) A death benefit in all cases shall be paid in installments in the same manner and amounts as temporary total disability indemnity would have to be made to the employee, unless the appeals board otherwise orders. However, no payment shall be made at a weekly rate of less than two hundred twenty-four dollars ($224).

(c) Disability indemnity shall not be deducted from the death benefit and shall be paid in addition to the death benefit when the injury resulting in death occurs after September 30, 1949.

(d) All rights under this section existing prior to January 1, 1990, shall be continued in force.

SEC. 3. Section 4706.5 of the Labor Code is amended to read:

4706.5. (a) Whenever any fatal injury is suffered by an employee under circumstances that would entitle the employee to compensation benefits, but for his or her death, and the employee does not leave surviving any person entitled to a dependency death benefit, the employer shall pay a sum to the Department of Industrial Relations equal to the total dependency death benefit that would be payable to a surviving spouse with no dependent minor children.

(b) When the deceased employee leaves no surviving dependent, personal representative, heir, or other person entitled to the accrued and unpaid compensation referred to in Section 4700, the accrued and unpaid compensation shall be paid by the employer to the Department of Industrial Relations.

(c) The payments to be made to the Department of Industrial Relations, as required by subdivisions (a) and (b), shall be deposited in the General Fund and shall be credited, as a reimbursement, to any appropriation to the Department of Industrial Relations for payment of the additional compensation for subsequent injury provided in Article 5 (commencing

with Section 4751), in the fiscal year in which the Controller's receipt is issued.

(d) The payments to be made to the Department of Industrial Relations, as required by subdivision (a), shall be paid to the department in a lump sum in the manner provided in subdivision (b) of Section 5101.

(e) The Department of Industrial Relations shall keep a record of all payments due the state under this section, and shall take any steps as may be necessary to collect those amounts.

(f) Each employer, or the employer's insurance carrier, shall notify the administrative director, in any form as the administrative director may prescribe, of each employee death, except when the employer has actual knowledge or notice that the deceased employee left a surviving dependent.

(g) When, after a reasonable search, the employer concludes that the deceased employee left no one surviving who is entitled to a dependency death benefit, and concludes that the death was under circumstances that would entitle the employee to compensation benefits, the employer may voluntarily make the payment referred to in subdivision (a). Payments so made shall be construed as payments made pursuant to an appeals board findings and award. Thereafter, if the appeals board finds that the deceased employee did in fact leave a person surviving who is entitled to a dependency death benefit, upon that finding, all payments referred to in subdivision (a) that have been made shall be forthwith returned to the employer, or if insured, to the employer's workers' compensation carrier that indemnified the employer for the loss.

(h) This section does not apply where there is no surviving person entitled to a dependency death benefit or accrued and unpaid compensation if a death benefit is paid to any person under paragraph (6) of subdivision (a) of Section 4702.

CHAPTER 120

An act to add Section 31680.8 to the Government Code, relating to county employees' retirement.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 31680.8 is added to the Government Code, to read:

31680.8. (a) Notwithstanding any other provision of law, a safety member who was required to retire for service because of age during the operative dates of, and as described in, Section 31662.4, 31662.6, 31662.8, or 31663, may be reemployed by the county in the same position that he or she retired from and be reinstated to active membership upon all of the following:

(1) His or her application to the board for reinstatement to active membership.

(2) The determination of the board, based on medical advice, that the member is not incapacitated for the duties of the position assigned to him or her.

(b) The member shall be reinstated to active membership in the plan or tier that he or she retired from, effective the first day of the month following the date of reemployment, and his or her membership shall be the same as if unbroken by retirement. Notwithstanding any other provision of law, the credited service of the member rendered both before and after reinstatement shall be included for the purpose of determining the eligibility of the member for benefits under this chapter.

(c) Upon reemployment pursuant to this section, the retirement allowance of the member shall be cancelled. Upon the subsequent termination of the member from employment, the retirement allowance of the member shall be recalculated on the basis of the credited service rendered both before and after reinstatement pursuant to the formula applicable to the member prior to reinstatement. Notwithstanding any other provision of law, the reinstatement rights conferred by this section shall not entitle a person to a retirement right or benefit that exceeds the limitations in the Internal Revenue Code that apply to public retirement systems.

(d) Upon reinstatement pursuant to this section, the rate of contribution of the member shall be based on the same age at entry that was used in calculating the contribution rate of the member during his or her original period of employment.

(e) This section shall apply only to a county of the first class as described in Section 28020 and shall not become operative in that county until the board of supervisors, by resolution adopted by majority vote, makes this section operative in that county.

CHAPTER 121

An act to amend Section 20630 of the Government Code, relating to public employees' retirement, making an appropriation therefor.

[Approved by Governor July 24, 2006. Filed with
Secretary of State July 24, 2006.]

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

SECTION 1. Section 20630 of the Government Code is amended to read:

20630. (a) As used in this part, "compensation" means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of any of the following:

(1) Holidays.

(2) Sick leave.

(3) Industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code, Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the Education Code.

(4) Vacation.

(5) Compensatory time off.

(6) Leave of absence.

(b) When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid. Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636.

CHAPTER 122

An act to amend Section 7145.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 24, 2006. Filed with
Secretary of State July 24, 2006.]

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

SECTION 1. Section 7145.5 of the Business and Professions Code is amended to read:

7145.5. (a) The registrar may refuse to issue, reinstate, reactivate, or renew a license or may suspend a license for the failure of a licensee to resolve all outstanding final liabilities, which include taxes, additions

to tax, penalties, interest and any fees that may be assessed by the board, the Department of Industrial Relations, the Employment Development Department, or the Franchise Tax Board.

(1) Until the debts covered by this section are satisfied, the qualifying person and any other personnel of record named on a license that has been suspended under this section shall be prohibited from serving in any capacity that is subject to licensure under this chapter, but shall be permitted to act in the capacity of a nonsupervising bona fide employee.

(2) The license of any other renewable licensed entity with any of the same personnel of record that have been assessed an outstanding liability covered by this section shall be suspended until the debt has been satisfied or until the same personnel of record disassociate themselves from the renewable licensed entity.

(b) The refusal to issue a license or the suspension of a license as provided by this section shall be applicable only if the registrar has mailed a notice preliminary to the refusal or suspension that indicates that the license will be refused or suspended by a date certain. This preliminary notice shall be mailed to the licensee at least 60 days before the date certain.

(c) In the case of outstanding final liabilities assessed by the Franchise Tax Board, this section shall be operative within 60 days after the Contractor's State Licensing Board has provided the Franchise Tax Board with the information required under Section 30, relating to licensing information which includes the federal employee identification number or social security number.

(d) All versions of the application for contractor's licenses shall include, as part of the application, an authorization by the applicant, in the form and manner mutually agreeable to the Franchise Tax Board and the board, for the Franchise Tax Board to disclose the tax information that is required for the registrar to administer this section. The Franchise Tax Board may from time to time audit these authorizations.

CHAPTER 123

An act to amend Sections 7102 and 7113.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 7102 of the Business and Professions Code is amended to read:

7102. After suspension of a license upon any of the grounds set forth in this chapter, the registrar may reinstate the license upon proof of compliance by the contractor with all provisions of the decision as to reinstatement or, in the absence of a decision or any provisions of reinstatement, in the sound discretion of the registrar.

After revocation of a license upon any of the grounds set forth in this chapter, the license shall not be reinstated or reissued and a license shall not be issued to any member of the personnel of the revoked licensee found to have had knowledge of or participated in the acts or omissions constituting grounds for revocation, within a minimum period of one year and a maximum period of five years after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

The board shall promulgate regulations covering the criteria to be considered when extending the minimum one-year period. The criteria shall give due consideration to the appropriateness of the extension of time with respect to the following factors:

(a) The gravity of the violation.

(b) The history of previous violations.

(c) Criminal convictions.

When any loss has been reduced to a monetary obligation or debt, however, the satisfaction of the monetary obligation or debt as a prerequisite for the issuance, reissuance, or reinstatement of a license shall not be required to the extent the monetary obligation or debt was discharged in a bankruptcy proceeding. However, any nonmonetary condition not discharged in a bankruptcy proceeding shall be complied with prior to the issuance, the reissuance, or reinstatement of the license.

SEC. 2. Section 7113.5 of the Business and Professions Code is amended to read:

7113.5. The avoidance or settlement by a licensee for less than the full amount of the lawful obligations of the licensee incurred as a contractor, whether by (a) composition, arrangement, or reorganization with creditors under state law, (b) composition, arrangement, or reorganization with creditors under any agreement or understanding, (c) receivership as provided in Chapter 5 (commencing at Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, (d) assignment for

the benefit of creditors, (e) trusteeship, or (f) dissolution, constitutes a cause for disciplinary action.

This section shall not apply to an individual settlement of the obligation of a licensee by the licensee with a creditor that is not a part of or in connection with a settlement with other creditors of the licensee.

No disciplinary action shall be commenced against a licensee for avoiding or settling in bankruptcy, or by composition, arrangement, or reorganization with creditors under federal law, the licensee's lawful obligations incurred as a contractor for less than the full amount of the obligations, so long as the licensee satisfies all of those lawful obligations, to the extent the obligations are not discharged under federal law.

CHAPTER 124

An act to amend Sections 8585 and 8741 of the Health and Safety Code, relating to cemeteries.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 8585 of the Health and Safety Code is amended to read:

8585. (a) Whenever ownership of any cemetery authority is proposed to be transferred, the cemetery authority shall notify the Cemetery and Funeral Bureau in the Department of Consumer Affairs. A change in ownership, for purposes of this section, shall be deemed to occur whenever more than 50 percent of the equitable ownership of a cemetery authority is transferred in a single transaction or in a related series of transactions to one or more persons, associations, or corporations. The notice shall specify the address of the principal offices of the cemetery authority, and whether it will be changed or unchanged, and shall specify the name and address of each new owner and the stockholders thereof.

(b) Notice of the change of ownership shall be published in a newspaper of general circulation in the county in which the cemetery is located. The notice shall specify the address of the principal offices of the cemetery authority, whether changed or unchanged, and shall specify the name and address of each new owner and each stockholder owning more than 5 percent of the stock of each new owner.

(c) If there is a change of ownership pursuant to this section, the existing certificate of authority shall lapse and a new certificate of authority shall be obtained from the Cemetery and Funeral Bureau. No person shall purchase a cemetery, including purchase at a sale for delinquent taxes, or purchase more than 50 percent of the equitable ownership of a cemetery authority without having obtained a certificate of authority from the Cemetery and Funeral Bureau prior to the purchase of the cemetery or the ownership interest in the cemetery authority.

(d) Every cemetery authority shall post and continuously maintain at each public entrance to the cemetery a sign specifying the current name and address of the cemetery authority, a statement that the name and address of each director and officer of the cemetery authority may be obtained by contacting the Cemetery and Funeral Bureau of the State of California, and shall have either of the following:

(1) The address of the Cemetery and Funeral Bureau.

(2) A statement that the address of the Cemetery and Funeral Bureau is available at the office of the cemetery.

(e) The signs shall be at least 16 inches high and 24 inches wide and shall be prominently mounted upright and vertical.

(f) The Cemetery and Funeral Bureau shall suspend the certificate of authority of any cemetery authority which is in violation of the sign or public notice requirements of this section. The certificate may be reinstated only upon compliance with these requirements.

SEC. 2. Section 8741 of the Health and Safety Code is amended to read:

8741. Each endowment care cemetery shall post in a conspicuous place at or near the entrance of the cemetery and at its administration building and readily accessible to the public, a legible sign that shall contain the following information in the order and manner set forth below:

(a) A heading containing the words "endowment care"—which shall appear in a minimum of one-inch letters.

(b) The statement, "This is an endowment care interment property."

CHAPTER 125

An act to amend Section 8880.325 of the Government Code, relating to the California State Lottery.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. 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. Notwithstanding the foregoing, any other installment payment schedule is permitted if the installment obligation relating to the installments is guaranteed by a financial institution, as defined in paragraph (2) of subdivision (a) of Section 4981 of the Financial Code, or a brokerage firm that is a member of the Securities Investor Protection Corporation, as required by the federal Securities Investor Protection Act of 1970 (15 U.S.C. Sec. 78aaa et seq.).

(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. Notwithstanding the foregoing, if a prizewinner accepts an installment obligation guaranteed by an FDIC or SIPC insured entity, then the lien created by this section shall automatically terminate upon deliver of the installment obligation.

(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. 2. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984 enacted by Proposition 37 at the November 6, 1984, general election.

CHAPTER 126

An act to amend Section 5019 of the Education Code, relating to school districts.

[Approved by Governor July 24, 2006. Filed with Secretary of State July 24, 2006.]

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

SECTION 1. Section 5019 of the Education Code is amended to read:

5019. (a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district

organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall

be effective for the next district election occurring at least 120 days after its approval by the voters.

CHAPTER 127

An act to amend Section 830.1 of the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior court or county, any port warden or port police officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Attorney General and special agents and investigators of the Department of Justice are peace officers, and those assistant chiefs,

deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Butte, Kern, Humboldt, Imperial, Inyo, Kings, Mendocino, Plumas, Riverside, San Diego, Santa Barbara, Shasta, Siskiyou, Solano, Sonoma, Sutter, Tehama, Tulare, and Tuolumne who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

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

In order to provide specified counties as soon as possible with the necessary flexibility in operating their custodial facilities so that the counties may obtain efficient and effective staffing for the custodial facilities, to the benefit of both those residing within the facilities and those residing outside of the facilities, it is necessary that this bill go into immediate effect.

CHAPTER 128

An act to amend and renumber Section 1389.3 of the Health and Safety Code, and to repeal Section 14005.20 of the Welfare and Institutions Code, relating to health care.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 1389.3 of the Health and Safety Code, as added by Section 4 of Chapter 526 of the Statutes of 2005, is amended and renumbered to read:

1389.4. (a) A full service health care service plan that markets and sells individual health plan contracts shall be subject to this section.

(b) A health care service plan subject to this section shall have written policies, procedures, or underwriting guidelines establishing the criteria and process whereby the plan makes its decision to provide or to deny coverage to individuals applying for coverage and sets the rate for that coverage. These guidelines, policies, or procedures shall assure that the plan rating and underwriting criteria comply with Sections 1365.5 and 1389.1 and all other applicable provisions of state and federal law.

(c) On or before June 1, 2006, and annually thereafter, every health care service plan shall file with the department a general description of the criteria, policies, procedures, or guidelines the plan uses for rating and underwriting decisions related to individual health plan contracts, which means automatic declinable health conditions, health conditions that may lead to a coverage decline, height and weight standards, health history, health care utilization, lifestyle, or behavior that might result in a decline for coverage or severely limit the plan products for which they would be eligible. A plan may comply with this section by submitting to the department underwriting materials or resource guides provided to plan solicitors or solicitor firms, provided that those materials include the information required to be submitted by this section.

(d) Commencing September 1, 2006, the director shall post on the department's Web site, in a manner accessible and understandable to consumers, general, noncompany specific information about rating and underwriting criteria and practices in the individual market and information about the Major Risk Medical Insurance Program. The director shall develop the information for the Web site in consultation with the Department of Insurance to enhance the consistency of information provided to consumers. Information about individual health coverage shall also include the following notification:

"Please examine your options carefully before declining group coverage or continuation coverage, such as COBRA, that may be available to you. You should be aware that companies selling individual health insurance typically require a review of your medical history that could result in a higher premium or you could be denied coverage entirely."

(e) Nothing in this section shall authorize public disclosure of company specific rating and underwriting criteria and practices submitted to the director.

SEC. 2. Section 14005.20 of the Welfare and Institutions Code, as added by Section 18 of Chapter 147 of the Statutes of 1994, is repealed.

CHAPTER 129

An act to amend Sections 1675 and 1676 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 1675 of the Vehicle Code is amended to read:

1675. (a) The director shall establish standards and develop criteria for the approval of initial and renewal driver improvement courses specifically designed for the safe driving needs of drivers who are 55 years of age or older, which shall be known as mature driver improvement courses.

(b) The curricula for the courses provided for in subdivision (a) shall include, but is not limited to, all of the following components:

(1) How impairment of visual and audio perception affects driving performance and how to compensate for that impairment.

(2) The effects of fatigue, medications, and alcohol on driving performance, when experienced alone or in combination, and precautionary measures to prevent or offset ill effects.

(3) Updates on rules of the road and equipment, including, but not limited to, safety belts and safe and efficient driving techniques under present day road and traffic conditions.

(4) How to plan travel time and select routes for safety and efficiency.

(5) How to make crucial decisions in dangerous, hazardous, and unforeseen situations.

(c) The initial mature driver improvement course shall include not less than 400 minutes of instruction, and shall not exceed 25 students per single day of instruction or 30 students per two days of instruction.

(d) Upon satisfactory completion of an initial mature driver improvement course, participants shall receive and retain a certificate provided by the department, awarded and distributed by the course provider, which shall be suitable evidence of satisfactory course

completion, and eligibility for three years, from the date of completion, for the mature driver vehicle liability insurance premium reduction pursuant to Section 11628.3 of the Insurance Code.

(e) (1) The certificate may be renewed by successfully completing a subsequent renewal mature driver improvement course within one year of the expiration of the certificate, or if more than one year has elapsed since the expiration, a mature driver improvement course in accordance with the standards established in subdivision (c).

(2) The renewal mature driver improvement course shall include not less than 240 minutes of instruction.

(f) For the purposes of this section, and Sections 1676 and 1677, "course provider" means any person offering a mature driver improvement course approved by the department pursuant to subdivision (a).

SEC. 2. Section 1676 of the Vehicle Code is amended to read:

1676. (a) A course provider conducting a mature driver improvement course pursuant to Section 1675 may charge a tuition not to exceed thirty dollars ($30).

(b) A course provider shall issue a receipt for the tuition it collects from an individual who registers for or attends a mature driver improvement course.

(c) The department shall charge a fee not to exceed three dollars ($3) for each completion certificate issued to a mature driver improvement course provider, pursuant to subdivision (d) of Section 1675. The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering the mature driver improvement program, for evaluating the program, and for any other activities deemed necessary by the department to assure high quality education for participants of the program. A course provider shall not charge a fee in excess of the fee charged by the department pursuant to this subdivision for furnishing a certificate of completion or duplicate thereof. The department shall transmit all fees it receives for deposit in the Motor Vehicle Account in the State Transportation Fund pursuant to Section 42270.

CHAPTER 130

An act to amend Sections 1815 and 1816 of the Family Code, relating to family law.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 1815 of the Family Code is amended to read:

1815. (a) A person employed as a supervising counselor of conciliation or as an associate counselor of conciliation shall have all of the following minimum qualifications:

(1) A master's degree in psychology, social work, marriage, family and child counseling, or other behavioral science substantially related to marriage and family interpersonal relationships.

(2) At least two years of experience in counseling or psychotherapy, or both, preferably in a setting related to the areas of responsibility of the family conciliation court and with the ethnic population to be served.

(3) Knowledge of the court system of California and the procedures used in family law cases.

(4) Knowledge of other resources in the community that clients can be referred to for assistance.

(5) Knowledge of adult psychopathology and the psychology of families.

(6) Knowledge of child development, child abuse, clinical issues relating to children, the effects of divorce on children, the effects of domestic violence on children, and child custody research sufficient to enable a counselor to assess the mental health needs of children.

(7) Training in domestic violence issues as described in Section 1816.

(b) The family conciliation court may substitute additional experience for a portion of the education, or additional education for a portion of the experience, required under subdivision (a).

(c) This section does not apply to any supervising counselor of conciliation who was in office on March 27, 1980.

SEC. 2. Section 1816 of the Family Code is amended to read:

1816. (a) For purposes of this section, the following definitions apply:

(1) "Eligible provider" means the Administrative Office of the Courts or an educational institution, professional association, professional continuing education group, a group connected to the courts or a public or private group that has been authorized by the Administrative Office of the Courts to provide domestic violence training.

(2) "Evaluator" means a supervising or associate counselor described in Section 1815, a mediator described in Section 3164, a court-connected or private child custody evaluator described in Section 3110.5, or a court-appointed investigator or evaluator as described in Section 3110 or Section 730 of the Evidence Code.

(b) An evaluator shall participate in a program of continuing instruction in domestic violence, including child abuse, as may be

arranged and provided to that evaluator. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(c) Areas of basic instruction shall include, but are not limited to, the following:

(1) The effects of domestic violence on children.

(2) The nature and extent of domestic violence.

(3) The social and family dynamics of domestic violence.

(4) Techniques for identifying and assisting families affected by domestic violence.

(5) Interviewing, documentation of, and appropriate recommendations for families affected by domestic violence.

(6) The legal rights of, and remedies available to, victims.

(7) Availability of community and legal domestic violence resources.

(d) An evaluator shall also complete 16 hours of advanced training within a 12-month period. Four hours of that advanced training shall include community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the family being evaluated may reside. Twelve hours of instruction, as approved by the Administrative Office of the Courts, shall include all of the following:

(1) The appropriate structuring of the child custody evaluation process, including, but not limited to, all of the following:

(A) Maximizing safety for clients, evaluators, and court personnel.

(B) Maintaining objectivity.

(C) Providing and gathering balanced information from the parties and controlling for bias.

(D) Providing separate sessions at separate times as described in Section 3113.

(E) Considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence.

(2) The relevant sections of local, state, and federal laws, rules, or regulations.

(3) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, all of the following:

(A) Shelters for battered women.

(B) Counseling, including drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(F) Resources for a victim who is an immigrant.

(4) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, all of the following:

(A) Certified treatment programs described in Section 1203.097 of the Penal Code.

(B) Drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(5) The unique issues in a family and psychological assessment in a domestic violence case, including all of the following:

(A) The effects of exposure to domestic violence and psychological trauma on children, the relationship between child physical abuse, child sexual abuse, and domestic violence, the differential family dynamics related to parent-child attachments in families with domestic violence, intergenerational transmission of familial violence, and manifestations of post-traumatic stress disorders in children.

(B) The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence.

(C) Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships.

(D) The assessment of family history based on the type, severity, and frequency of violence.

(E) The impact on parenting abilities of being a victim or perpetrator of domestic violence.

(F) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases.

(G) The influence of alcohol and drug use and abuse on the incidence of domestic violence.

(H) Understanding the dynamics of high conflict relationships and relationships between an abuser and victim.

(I) The importance of and procedures for obtaining collateral information from a probation department, children's protective services, police incident report, a pleading regarding a restraining order, medical records, a school, and other relevant sources.

(J) Accepted methods for structuring safe and enforceable child custody and parenting plans that assure the health, safety, welfare, and best interest of the child, and safeguards for the parties.

(K) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and

from minimizing allegations of domestic violence, child abuse, or abuse against a family member.

(e) After an evaluator has completed the advanced training described in subdivision (d), that evaluator shall complete four hours of updated training annually that shall include, but is not limited to, all of the following:

(1) Changes in local court practices, case law, and state and federal legislation related to domestic violence.

(2) An update of current social science research and theory, including the impact of exposure to domestic violence on children.

(f) Training described in this section shall be acquired from an eligible provider and that eligible provider shall comply with all of the following:

(1) Ensure that a training instructor or consultant delivering the education and training programs either meets the training requirements of this section or is an expert in the subject matter.

(2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.

(3) Emphasize the importance of focusing child custody evaluations on the health, safety, welfare, and best interest of the child.

(4) Develop a procedure to verify that an evaluator completes the education and training program.

(5) Distribute a certificate of completion to each evaluator who has completed the training. That certificate shall document the number of hours of training offered, the number of hours the evaluator completed, the dates of the training, and the name of the training provider.

(g) (1) If there is a local court rule regarding the procedure to notify the court that an evaluator has completed training as described in this section, the evaluator shall comply with that local court rule.

(2) Except as provided in paragraph (1) of this subdivision, an evaluator shall attach copies of his or her certificates of completion of the training described in subdivision (d) and the most recent updated training described in subdivision (e).

(h) An evaluator may satisfy the requirement for 12 hours of instruction described in subdivision (d) by training from an eligible provider that was obtained on or after January 1, 1996. The advanced training of that evaluator shall not be complete until that evaluator completes the four hours of community resource networking described in subdivision (d).

(i) The Judicial Council shall develop standards for the training programs. The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and child abuse and shall seek to develop training programs that will maximize coordination

between conciliation courts and local agencies concerned with domestic violence.

CHAPTER 131

An act to amend Section 14115 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. (a) Bills for service under this chapter shall be submitted not more than six months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself or herself to the provider as a Medi-Cal beneficiary within four months after the month in which the service was rendered, the provider shall be entitled to submit his or her statement at any time within 60 days after that date certified by the provider as the date the patient was first identified as a Medi-Cal beneficiary. However, the date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

(b) The director may, where he or she finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

(c) (1) Reimbursement for an original claim, submitted for payment between 6 and 12 months after the month of service, that does not meet any of the exceptions allowing billing after six months as specified in

subdivisions (a) and (b), or the exception specified in subdivision (f), shall be reduced as follows:

(A) The amount otherwise payable by Medi-Cal shall be reduced by 25 percent for claims submitted during the seventh through the ninth month after the month of service.

(B) The amount otherwise payable by Medi-Cal shall be reduced by 50 percent for claims submitted during the 10th through the 12th month after the month of service.

(2) The director may establish exceptions through regulations, for claims submitted beyond the one-year billing limitation, to the extent full federal participation is available.

(3) The reductions specified in paragraph (1) shall not apply to a Medi-Cal program for which there is no state General Fund match, including, but not limited to, the Local Education Agency (LEA) Medi-Cal Billing Option program and the Targeted Case Management (TCM) program.

(d) For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

(e) No further followup shall be required, after the provider receives acknowledgment of a claim inquiry from the fiscal intermediary, until the claim is paid or denied, except that this period shall not exceed one year from the date of acknowledgment. Within one year from the date of acknowledgment the next level of appeal shall be utilized by the provider.

(f) To the extent permitted by federal law, when a state of emergency has been declared by either the President of the United States or the Governor, the director, in order to ensure continued access to health care services, may remit payment for services without the submission of required documentation, to any provider in good standing under the Medi-Cal program who, due to destruction, loss, or inaccessibility of data as a result of the emergency situation, is unable to submit claims. Emergency payments may be made for a period of up to six months from the date of the emergency declaration. All requests for emergency payment shall include adequate justification for payment, as required by the director, and shall be paid based on the previous claims history of the requesting provider held by the department.

CHAPTER 132

An act to add Sections 25405.5 and 25405.6 to, and to add Chapter 8.8 (commencing with Section 25780) to Division 15 of, the Public

Resources Code, and to amend Section 2827 of, and to add Sections 387.5 and 2851 to, the Public Utilities Code, relating to solar electricity.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. (a) The Legislature finds and declares that the Public Utilities Commission (PUC) adopted the California Solar Initiative in Decision 06-01-024.

(b) Nothing in this act shall be construed to codify PUC Decision 06-01-024.

SEC. 2. Section 25405.5 is added to the Public Resources Code, to read:

25405.5. (a) As used in this section, the following terms have the following meanings:

(1) "kW" means kilowatts or 1,000 watts, as measured from the alternating current side of the solar energy system inverter consistent with Section 223 of Title 15 of the United States Code.

(2) "Production home" means a single-family residence constructed as part of a development of at least 50 homes per project that is intended or offered for sale.

(3) "Solar energy system" means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity, that produces at least one kW, and not more than five megawatts, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782.

(b) A seller of production homes shall offer a solar energy system option to all customers that enter into negotiations to purchase a new production home constructed on land for which an application for a tentative subdivision map has been deemed complete on or after January 1, 2011, and disclose the following:

(1) The total installed cost of the solar energy system option.

(2) The estimated cost savings associated with the solar energy system option, as determined by the commission pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15.

(c) The State Energy Resources Conservation and Development Commission shall develop an offset program that allows a developer or seller of production homes to forgo the offer requirement of this section on a project, by installing solar energy systems generating specified amounts of electricity on other projects, including, but not limited to,

low-income housing, multifamily, commercial, industrial, and institutional developments. The amount of electricity required to be generated from solar energy systems used as an offset pursuant to this subdivision shall be equal to the amount of electricity generated by solar energy systems installed on a similarly sized project within that climate zone, assuming 20 percent of the prospective buyers would have installed solar energy systems.

(d) The requirements of this section shall not operate as a substitute for the implementation of existing energy efficiency measures, and the requirements of this section shall not result in lower energy savings or lower energy efficiency levels than would otherwise be achieved by the full implementation of energy savings and energy efficiency standards established pursuant to Section 25402.

SEC. 3. Section 25405.6 is added to the Public Resources Code, to read:

25405.6. Not later than July 1, 2007, the commission shall initiate a public proceeding to study and make findings whether, and under what conditions, solar energy systems should be required on new residential and new nonresidential buildings, including the establishment of numerical targets. As part of the study, the commission may determine that a solar energy system should not be required for any building unless the commission determines, based upon consideration of all costs associated with the system, that the system is cost effective when amortized over the economic life of the structure. When determining the cost-effectiveness of the solar energy system, the commission shall consider the availability of governmental rebates, tax deductions, net-metering, and other quantifiable factors, if the commission can determine the availability of these financial incentives if a solar energy system is made mandatory and not elective. The commission shall periodically update the study and incorporate any revision that the commission determines is necessary, including revisions that reflect changes in the financial incentives originally considered by the commission when determining cost-effectiveness of the solar energy system. For purposes of this section, "solar energy system" means a photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of electricity. This section is intended to be for study purposes only and does not authorize the commission to develop and adopt any requirement for solar energy systems on either residential or nonresidential buildings.

SEC. 4. Chapter 8.8 (commencing with Section 25780) is added to Division 15 of the Public Resources Code, to read:

Chapter 8.8. California Solar Initiative

25780. The Legislature finds and declares both of the following:

(a) It is the goal of the state to install solar energy systems with a generation capacity equivalent of 3,000 megawatts, to establish a self-sufficient solar industry in which solar energy systems are a viable mainstream option for both homes and businesses in 10 years, and to place solar energy systems on 50 percent of new homes in 13 years.

(b) A solar initiative should be a cost-effective investment by ratepayers in peak electricity generation capacity where ratepayers recoup the cost of their investment through lower rates as a result of avoiding purchases of electricity at peak rates, with additional system reliability and pollution reduction benefits.

25781. As used in this chapter, the following terms have the following meanings:

(a) "California Solar Initiative" means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the Public Utilities Commission in Decision 06-01-024.

(b) "kW" means kilowatts or 1,000 watts, as measured from the alternating current side of the solar energy system inverter consistent with Section 223 of Title 15 of the United States Code.

(c) "kWh" means kilowatthours, as measured by the number of kilowatts generated in an hour.

(d) "MW" means megawatts or 1,000,000 watts.

(e) "Solar energy system" means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity, that produces at least one kW, and not more than five MW, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782.

25782. (a) The commission shall, by January 1, 2008, in consultation with the Public Utilities Commission, local publicly owned electric utilities, and interested members of the public, establish eligibility criteria for solar energy systems receiving ratepayer funded incentives that include all of the following:

(1) Design, installation, and electrical output standards or incentives.

(2) The solar energy system is intended primarily to offset part or all of the consumer's own electricity demand.

(3) All components in the solar energy system are new and unused, and have not previously been placed in service in any other location or for any other application.

(4) The solar energy system has a warranty of not less than 10 years to protect against defects and undue degradation of electrical generation output.

(5) The solar energy system is located on the same premises of the end-use consumer where the consumer's own electricity demand is located.

(6) The solar energy system is connected to the electrical corporation's electrical distribution system within the state.

(7) The solar energy system has meters or other devices in place to monitor and measure the system's performance and the quantity of electricity generated by the system.

(8) The solar energy system is installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards.

(b) The commission shall establish conditions on ratepayer funded incentives that require all of the following:

(1) Appropriate siting and high quality installation of the solar energy system by developing installation guidelines that maximize the performance of the system and prevent qualified systems from being inefficiently or inappropriately installed. The conditions established by the commission shall not impact housing designs or densities presently authorized by a city, county, or city and county. The goal of this paragraph is to achieve efficient installation of solar energy systems to promote the greatest energy production per ratepayer dollar.

(2) Optimal solar energy system performance during periods of peak electricity demand.

(3) Appropriate energy efficiency improvements in the new or existing home or commercial structure where the solar energy system is installed.

(c) The commission shall set rating standards for equipment, components, and systems to assure reasonable performance and shall develop standards that provide for compliance with the minimum ratings.

(d) Upon establishment of eligibility criteria pursuant to subdivision (a), no ratepayer funded incentives shall be made for a solar energy system that does not meet the eligibility criteria.

25783. The commission shall do all the following:

(a) Publish educational materials designed to demonstrate how builders may incorporate solar energy systems during construction as well as energy efficiency measures that best complement solar energy systems.

(b) Develop and publish the estimated annual electrical generation and savings for solar energy systems. The estimates shall vary by climate zone, type of system, size, lifecycle costs, electricity prices, and other factors the commission determines to be relevant to a consumer when making a purchasing decision.

(c) Provide assistance to builders and contractors. The assistance may include technical workshops, training, educational materials, and related research.

(d) The commission shall annually conduct random audits of solar energy systems to evaluate their operational performance.

(e) The commission, in consultation with the Public Utilities Commission, shall evaluate the costs and benefits of having an increased number of operational solar energy systems as a part of the electrical system with respect to their impact upon the distribution, transmission, and supply of electricity, using the best available load profiling and distribution operations data from the Public Utilities Commission, local publicly owned electric utilities, and electrical corporations, and performance audits of installed solar energy systems.

25784. The commission shall adopt guidelines for solar energy systems receiving ratepayer funded incentives at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' public notice shall be given of the meeting required by this section, before the commission initially adopts guidelines. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 387.5 is added to the Public Utilities Code, to read:

387.5. (a) In order to further the state goal of encouraging the installation of 3,000 megawatts of photovoltaic solar energy in California within 10 years, the governing body of a local publicly owned electric utility, as defined in subdivision (d) of Section 9604, that sells electricity at retail, shall adopt, implement, and finance a solar initiative program, funded in accordance with subdivision (b), for the purpose of investing in, and encouraging the increased installation of, residential and commercial solar energy systems.

(b) On or before January 1, 2008, a local publicly owned electric utility shall offer monetary incentives for the installation of solar energy systems of at least two dollars and eighty cents ($2.80) per installed watt, or for the electricity produced by the solar energy system, measured in kilowatthours, as determined by the governing board of a local publicly owned electric utility, for photovoltaic solar energy systems. The incentive level shall decline each year thereafter at a rate of no less than an average of 7 percent per year.

(c) A local publicly owned electric utility shall initiate a public proceeding to fund a solar energy program to adequately support the

goal of installing 3,000 megawatts of photovoltaic solar energy in California. The proceeding shall determine what additional funding, if any, is necessary to provide the incentives pursuant to subdivision (b). The public proceeding shall be completed and the comprehensive solar energy program established by January 1, 2008.

(d) The solar energy program of a local publicly owned electric utility shall be consistent with all of the following:

(1) That a solar energy system receiving monetary incentives comply with the eligibility criteria, design, installation, and electrical output standards or incentives established by the State Energy Resources Conservation and Development Commission pursuant to Section 25782 of the Public Resources Code.

(2) That solar energy systems receiving monetary incentives are intended primarily to offset part or all of the consumer's own electricity demand.

(3) That all components in the solar energy system are new and unused, and have not previously been placed in service in any other location or for any other application.

(4) That the solar energy system has a warranty of not less than 10 years to protect against defects and undue degradation of electrical generation output.

(5) That the solar energy system be located on the same premises of the end-use consumer where the consumer's own electricity demand is located.

(6) That the solar energy system be connected to the electric utility's electrical distribution system within the state.

(7) That the solar energy system has meters or other devices in place to monitor and measure the system's performance and the quantity of electricity generated by the system.

(8) That the solar energy system be installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards.

(e) A local publicly owned electric utility shall, on an annual basis beginning June 1, 2008, make available to its customers, to the Legislature, and to the State Energy Resources Conservation and Development Commission, information relating to the utility's solar initiative program established pursuant to this section, including, but not limited to, the number of photovoltaic solar watts installed, the total number of photovoltaic systems installed, the total number of applicants, the amount of incentives awarded, and the contribution toward the program goals.

(f) In establishing the program required by this section, no moneys shall be diverted from any existing programs for low-income ratepayers, or from cost-effective energy efficiency or demand response programs.

(g) The statewide expenditures for solar programs adopted, implemented, and financed by local publicly owned electric utilities shall be seven hundred eighty-four million dollars ($784,000,000). The expenditure level for each local publicly owned electric utility shall be based on that utility's percentage of the total statewide load served by all local publicly owned electric utilities. Expenditures by a local publicly owned electric utility may be less than the utility's cap amount, provided that funding is adequate to provide the incentives required by subdivisions (a) and (b).

SEC. 6. Section 2827 of the Public Utilities Code is amended to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, and reduce interconnection and administrative costs for electricity suppliers.

(b) As used in this section, the following definitions apply:

(1) "Electric service provider" means an electrical corporation, as defined in Section 218, a local publicly owned electric utility, as defined in Section 9604, or an electrical cooperative, as defined in Section 2776, or any other entity that offers electrical service. This section shall not apply to a local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code, that serves more than 750,000 customers and that also conveys water to its customers.

(2) "Eligible customer-generator" means a residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (h). Net energy metering shall be accomplished using a single meter capable of

registering the flow of electricity in two directions. An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the customer-generator, at the expense of the electric service provider, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the customer-generator pursuant to subdivision (h), or to collect solar or wind electric generating system performance information for research purposes. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. An eligible customer-generator who already owns an existing solar or wind turbine electrical generating facility, or a hybrid system of both, is eligible to receive net energy metering service in accordance with this section.

(4) "Wind energy co-metering" means any wind energy project greater than 50 kilowatts, but not exceeding one megawatt, where the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period is as described in subdivision (h). Wind energy co-metering shall be accomplished pursuant to Section 2827.8.

(5) "Co-energy metering" means a program that is the same in all other respects as a net energy metering program, except that the local publicly owned electric utility, as defined in Section 9604, has elected to apply a generation-to-generation energy and time-of-use credit formula as provided in subdivision (i).

(6) "Ratemaking authority" means, for an electrical corporation as defined in Section 218, or an electrical cooperative as defined in Section 2776, the commission, and for a local publicly owned electric utility as defined in Section 9604, the local elected body responsible for regulating the rates of the local publicly owned utility.

(c) (1) Every electric service provider shall develop a standard contract or tariff providing for net energy metering, and shall make this contract available to eligible customer-generators, upon request, on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 2.5 percent of the electric service provider's aggregate customer peak demand.

(2) On an annual basis, beginning in 2003, every electric service provider shall make available to the ratemaking authority information on the total rated generating capacity used by eligible

customer-generators that are customers of that provider in the provider's service area. For those electric service providers who are operating pursuant to Section 394, they shall make available to the ratemaking authority the information required by this paragraph for each eligible customer-generator that is their customer for each service area of an electric corporation, local publicly owned electric utility, or electrical cooperative, in which the customer has net energy metering. The ratemaking authority shall develop a process for making the information required by this paragraph available to energy service providers, and for using that information to determine when, pursuant to paragraph (3), a service provider is not obligated to provide net energy metering to additional customer-generators in its service area.

(3) Notwithstanding paragraph (1), an electric service provider is not obligated to provide net energy metering to additional customer-generators in its service area when the combined total peak demand of all customer-generators served by all the electric service providers in that service area furnishing net energy metering to eligible customer-generators exceeds 2.5 percent of the aggregate customer peak demand of those electric service providers.

(4) By January 1, 2010, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall submit a report to the Governor and the Legislature on the costs and benefits of net energy metering, wind energy co-metering, and co-energy metering to participating customers and nonparticipating customers and with options to replace the economic costs and benefits of net energy metering, wind energy co-metering, and co-energy metering with a mechanism that more equitably balances the interests of participating and nonparticipating customers, and that incorporates the findings of the report on economic and environmental costs and benefits of net metering required by subdivision (n).

(d) Electric service providers shall make all necessary forms and contracts for net metering service available for download from the Internet.

(e) (1) Every electric service provider shall ensure that requests for establishment of net energy metering are processed in a time period not exceeding that for similarly situated customers requesting new electric service, but not to exceed 30 working days from the date the electric service provider receives a completed application form for net metering service, including a signed interconnection agreement from an eligible customer-generator and the electric inspection clearance from the governmental authority having jurisdiction. If an electric service provider is unable to process the request within the allowable timeframe, the electric service provider shall notify both the customer-generator and

the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(2) Electric service providers shall ensure that requests for an interconnection agreement from an eligible customer-generator are processed in a time period not to exceed 30 working days from the date the electric service provider receives a completed application form from the eligible customer-generator for an interconnection agreement. If an electric service provider is unable to process the request within the allowable timeframe, the electric service provider shall notify the customer-generator and the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(f) (1) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not provide distribution service for the direct transactions, the service provider that provides distribution service for an eligible customer-generator is not obligated to provide net energy metering to the customer.

(2) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier, and the customer is an eligible customer-generator, the service provider that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering in an amount set by the ratemaking authority.

(g) Except for the time-variant kilowatthour pricing portion of any tariff adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 2851, each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of an eligible solar or wind electrical generating facility. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the customer-generator's choice of electric service provider. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or any other charge that would increase an eligible customer-generator's costs beyond those of other customers who are not customer-generators in the rate class to which the eligible customer-generator would otherwise be assigned if the customer did not own, lease, rent, or otherwise operate

an eligible solar or wind electrical generating facility are contrary to the intent of this section, and shall not form a part of net energy metering contracts or tariffs.

(h) For eligible residential and small commercial customer-generators, the net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall determine if the eligible residential or small commercial customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatthours generated shall be valued at the same price per kilowatthour as the electric service provider would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatthours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatthour as the electric service provider would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under tariffs employing "time of use" rates, any net monthly consumption of electricity

shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time of use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all residential and small commercial customer-generators and for each billing period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward as a monetary value until the end of each 12-month period. For all commercial, industrial, and agricultural customer-generators the net balance of moneys owed shall be paid in accordance with the electric service provider's normal billing cycle, except that if the commercial, industrial, or agricultural customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period as a monetary value, calculated according to the procedures set forth in this section, and appear as a credit on the customer-generator's account, until the end of the annual period when paragraph (3) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible residential or small commercial customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding this subdivision, an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible residential or small commercial customer-generator terminates the customer relationship with the electric service provider,

the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(6) If an electric service provider providing net metering to a residential or small commercial customer-generator ceases providing that electrical service to that customer during any 12-month period, and the customer-generator enters into a new net metering contract or tariff with a new electric service provider, the 12-month period, with respect to that new electric service provider, shall commence on the date on which the new electric service provider first supplies electric service to the customer-generator.

(i) Notwithstanding any other provisions of this section, the following provisions shall apply to an eligible customer-generator with a capacity of more than 10 kilowatts, but not exceeding one megawatt, that receives electrical service from a local publicly owned electric utility, as defined in Section 9604, that has elected to utilize a co-energy metering program unless the electric service provider chooses to provide service for eligible customer-generators with a capacity of more than 10 kilowatts in accordance with subdivisions (g) and (h):

(1) The eligible customer-generator shall be required to utilize a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide "time-of-use" measurements of electricity flow, and the customer shall take service on a time-of-use rate schedule. If the existing meter of the eligible customer-generator is not a time-of-use meter or is not capable of measuring total flow of energy in both directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is both time-of-use and able to measure total electricity flow in both directions. This subdivision shall not restrict the ability of an eligible customer-generator to utilize any economic incentives provided by a government agency or the electric service provider to reduce its costs for purchasing and installing a time-of-use meter.

(2) The consumption of electricity from the electric service provider shall result in a cost to the eligible customer-generator to be priced in accordance with the standard rate charged to the eligible customer-generator in accordance with the rate structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility. The generation of electricity provided to the electric service provider shall result in a credit to the eligible customer-generator and shall be priced in accordance with the

generation component, established under the applicable structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility.

(3) All costs and credits shall be shown on the eligible customer-generator's bill for each billing period. In any months in which the eligible customer-generator has been a net consumer of electricity calculated on the basis of value determined pursuant to paragraph (2), the customer-generator shall owe to the electric service provider the balance of electricity costs and credits during that billing period. In any billing period in which the eligible customer-generator has been a net producer of electricity calculated on the basis of value determined pursuant to paragraph (2), the electric service provider shall owe to the eligible customer-generator the balance of electricity costs and credits during that billing period. Any net credit to the eligible customer-generator of electricity costs may be carried forward to subsequent billing periods, provided that an electric service provider may choose to carry the credit over as a kilowatthour credit consistent with the provisions of any applicable tariff, including any differences attributable to the time of generation of the electricity. At the end of each 12-month period, the electric service provider may reduce any net credit due to the eligible customer-generator to zero.

(j) A solar or wind turbine electrical generating system, or a hybrid system of both, used by an eligible customer-generator shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. A customer-generator whose solar or wind turbine electrical generating system, or a hybrid system of both, meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

(k) If the commission determines that there are cost or revenue obligations for an electric corporation, as defined in Section 218, that may not be recovered from customer-generators acting pursuant to this section, those obligations shall remain within the customer class from which any shortfall occurred and may not be shifted to any other customer class. Net-metering and co-metering customers shall not be exempt from the public benefits charge. In its report to the Legislature, the commission shall examine different methods to ensure that the public benefits charge remains a nonbypassable charge.

(*l*) A net metering customer shall reimburse the Department of Water Resources for all charges that would otherwise be imposed on the

customer by the commission to recover bond-related costs pursuant to an agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, as well as the costs of the department equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer. The commission shall incorporate the determination into an existing proceeding before the commission, and shall ensure that the charges are nonbypassable. Until the commission has made a determination regarding the nonbypassable charges, net metering shall continue under the same rules, procedures, terms, and conditions as were applicable on December 31, 2002.

(m) In implementing the requirements of subdivisions (k) and (*l*), a customer-generator shall not be required to replace its existing meter except as set forth in paragraph (3) of subdivision (b), nor shall the electric service provider require additional measurement of usage beyond that which is necessary for customers in the same rate class as the eligible customer-generator.

(n) On or before January 1, 2005, the commission shall submit a report to the Governor and the Legislature that assesses the economic and environmental costs and benefits of net metering to customer-generators, ratepayers, and utilities, including any beneficial and adverse effects on public benefit programs and special purpose surcharges. The report shall be prepared by an independent party under contract with the commission.

(o) It is the intent of the Legislature that the Treasurer incorporate net energy metering and co-energy metering projects undertaken pursuant to this section as sustainable building methods or distributive energy technologies for purposes of evaluating low-income housing projects.

SEC. 7. Section 2851 is added to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to read:

2851. (a) In implementing the California Solar Initiative, the commission shall do all of the following:

(1) The commission shall authorize the award of monetary incentives for up to the first megawatt of alternating current generated by solar energy systems that meet the eligibility criteria established by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code. The commission shall determine the eligibility of a solar energy system, as defined in Section 25781 of the Public Resources Code, to receive monetary incentives until the time the State Energy Resources Conservation and Development Commission establishes eligibility criteria pursuant to Section 25782. Monetary incentives shall not be awarded for solar energy systems that do not meet the eligibility criteria. The incentive level authorized by the commission

shall decline each year following implementation of the California Solar Initiative, at a rate of no less than an average of 7 percent per year, and shall be zero as of December 31, 2016. The commission shall adopt and publish a schedule of declining incentive levels no less than 30 days in advance of the first decline in incentive levels. The commission may develop incentives based upon the output of electricity from the system, provided those incentives are consistent with the declining incentive levels of this paragraph and the incentives apply to only the first megawatt of electricity generated by the system.

(2) The commission shall adopt a performance-based incentive program so that by January 1, 2008, 100 percent of incentives for solar energy systems of 100 kilowatts or greater and at least 50 percent of incentives for solar energy systems of 30 kilowatts or greater are earned based on the actual electrical output of the solar energy systems. The commission shall encourage, and may require, performance-based incentives for solar energy systems of less than 30 kilowatts. Performance-based incentives shall decline at a rate of no less than an average of 7 percent per year. In developing the performance-based incentives, the commission may:

(A) Apply performance-based incentives only to customer classes designated by the commission.

(B) Design the performance-based incentives so that customers may receive a higher level of incentives than under incentives based on installed electrical capacity.

(C) Develop financing options that help offset the installation costs of the solar energy system, provided that this financing is ultimately repaid in full by the consumer or through the application of the performance-based rebates.

(3) By January 1, 2008, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall require reasonable and cost-effective energy efficiency improvements in existing buildings as a condition of providing incentives for eligible solar energy systems, with appropriate exemptions or limitations to accommodate the limited financial resources of low-income residential housing.

(4) Notwithstanding subdivision (g) of Section 2827, the commission shall require time-variant pricing for all ratepayers with a solar energy system. The commission shall develop a time-variant tariff that creates the maximum incentive for ratepayers to install solar energy systems so that the system's peak electricity production coincides with California's peak electricity demands and that assures that ratepayers receive due value for their contribution to the purchase of solar energy systems and customers with solar energy systems continue to have an incentive to

use electricity efficiently. In developing the time-variant tariff, the commission may exclude customers participating in the tariff from the rate cap for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, as required by Section 80110 of the Water Code. Nothing in this paragraph authorizes the commission to require time-variant pricing for ratepayers without a solar energy system.

(b) Notwithstanding subdivision (a), in implementing the California Solar Initiative, the commission may authorize the award of monetary incentives for solar thermal and solar water heating devices, in a total amount up to one hundred million eight hundred thousand dollars ($100,800,000).

(c) (1) In implementing the California Solar Initiative, the commission shall not allocate more than fifty million dollars ($50,000,000) to research, development, and demonstration that explores solar technologies and other distributed generation technologies that employ or could employ solar energy for generation or storage of electricity or to offset natural gas usage. Any program that allocates additional moneys to research, development, and demonstration shall be developed in collaboration with the Energy Commission to ensure there is no duplication of efforts, and adopted by the commission through a rulemaking or other appropriate public proceeding. Any grant awarded by the commission for research, development, and demonstration shall be approved by the full commission at a public meeting. This subdivision does not prohibit the commission from continuing to allocate moneys to research, development, and demonstration pursuant to the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000, as modified pursuant to Section 379.6.

(2) The Legislature finds and declares that a program that provides a stable source of monetary incentives for eligible solar energy systems will encourage private investment sufficient to make solar technologies cost effective.

(3) On or before June 30, 2009, and by June 30th of every year thereafter, the commission shall submit to the Legislature an assessment of the success of the California Solar Initiative program. That assessment shall include the number of residential and commercial sites that have installed solar thermal devices for which an award was made pursuant to subdivision (b) and the dollar value of the award, the number of residential and commercial sites that have installed solar energy systems, the electrical generating capacity of the installed solar energy systems, the cost of the program, total electrical system benefits, including the effect on electrical service rates, environmental benefits, how the program

affects the operation and reliability of the electrical grid, how the program has affected peak demand for electricity, the progress made toward reaching the goals of the program, whether the program is on schedule to meet the program goals, and recommendations for improving the program to meet its goals. If the commission allocates additional moneys to research, development, and demonstration that explores solar technologies and other distributed generation technologies pursuant to paragraph (1), the commission shall include in the assessment submitted to the Legislature, a description of the program, a summary of each award made or project funded pursuant to the program, including the intended purposes to be achieved by the particular award or project, and the results of each award or project.

(d) (1) The commission shall not impose any charge upon the consumption of natural gas, or upon natural gas ratepayers, to fund the California Solar Initiative.

(2) Notwithstanding any other provision of law, any charge imposed to fund the program adopted and implemented pursuant to this section shall be imposed upon all customers not participating in the California Alternate Rates for Energy (CARE) or family electric rate assistance (FERA) programs as provided in paragraph (2), including those residential customers subject to the rate cap required by Section 80110 of the Water Code for existing baseline quantities or usage up to 130 percent of existing baseline quantities of electricity.

(3) The costs of the program adopted and implemented pursuant to this section may not be recovered from customers participating in the California Alternate Rates for Energy or CARE program established pursuant to Section 739.1, except to the extent that program costs are recovered out of the nonbypassable system benefits charge authorized pursuant to Section 399.8.

(e) In implementing the California Solar Initiative, the commission shall ensure that the total cost over the duration of the program does not exceed three billion three hundred fifty million eight hundred thousand dollars ($3,350,800,000). The financial components of the California Solar Initiative shall consist of the following:

(1) Programs under the supervision of the commission funded by charges collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company. The total cost over the duration of these programs shall not exceed two billion one hundred sixty-six million eight hundred thousand dollars ($2,166,800,000) and includes moneys collected directly into a tracking account for support of the California Solar Initiative and moneys collected into other accounts that are used to further the goals of the California Solar Initiative.

(2) Programs adopted, implemented, and financed in the amount of seven hundred eighty-four million dollars ($784,000,000), by charges collected by local publicly owned electric utilities pursuant to Section 387.5. Nothing in this subdivision shall give the commission power and jurisdiction with respect to a local publicly owned electric utility or its customers.

(3) Programs for the installation of solar energy systems on new construction, administered by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, and funded by nonbypassable charges in the amount of four hundred million dollars ($400,000,000), collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company pursuant to Article 15 (commencing with Section 399).

SEC. 8. The Contractors' State License Board shall review and, if needed, revise its licensing classifications and examinations to ensure that contractors authorized to perform work on solar energy systems subject to Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code, have the requisite qualifications to perform the work.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 133

An act to amend Section 2135.5 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 2135.5 of the Business and Professions Code is amended to read:

2135.5. Upon review and recommendation, the Division of Licensing may determine that an applicant for a physician and surgeon's certificate

has satisfied the medical curriculum requirements of Section 2089, the clinical instruction requirements of Sections 2089.5 and 2089.7, and the examination requirements of Section 2170 if the applicant meets all of the following criteria:

(a) He or she holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of four years prior to the date of application.

(b) He or she is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(c) He or she is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(d) He or she has not graduated from a medical school that has been disapproved by the division or that does not provide a resident course of instruction.

(e) He or she has graduated from a medical school recognized by the division. If the applicant graduated from a medical school that the division recognized after the date of the applicant's graduation, the division may evaluate the applicant under its regulations.

(f) He or she has not been the subject of a disciplinary action by a medical licensing authority or of an adverse judgment or settlement resulting from the practice of medicine that, as determined by the division, constitutes a pattern of negligence or incompetence.

CHAPTER 134

An act to amend Section 81378 of the Education Code, relating to community colleges.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 81378 of the Education Code is amended to read:

81378. The governing board of a community college district, without complying with any other provision of this article, may lease in the name of the district any buildings, grounds, or space therein, together with any personal property located thereon, not needed for school classroom buildings upon terms and conditions agreed upon by the governing board

of the district and the lessee for a period not exceeding 14 separate or consecutive calendar days, or portions of those days, in each fiscal year.

CHAPTER 135

An act to amend Sections 6309, 6313, and 6314 of the Public Resources Code, relating to public resources.

[Approved by Governor August 21, 2006. Filed with Secretary of State August 21, 2006.]

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

SECTION 1. Section 6309 of the Public Resources Code is amended to read:

6309. (a) The commission shall administer the Shipwreck and Historic Maritime Resources Program, which consists of the activities of the commission pursuant to this section and Sections 6313 and 6314.

(b) The commission has exclusive jurisdiction with respect to salvage operations over and upon all tide and submerged lands of the state. The commission may grant the privilege of conducting salvage operations upon or over those lands by the issuance of permits. The commission may adopt rules and regulations in connection with applications for those permits, and the operations to be conducted in the salvage operation, that the commission determines to be necessary to protect those lands and the uses and purposes reserved to the people of the state.

(c) The commission may issue permits for salvage on granted tide and submerged lands only after consultation with the grantee and a determination by the commission that the proposed salvage operation is not inconsistent with the purposes of the grant.

(d) A salvage permit shall be required of a person or entity to conduct any salvage operation. As used in this section and Section 6313, "salvage operation" means any activity, including search by electronic means, or exploration or excavation using tools or mechanical devices, with the objective of locating, and recovering or removing vessels, aircraft, or any other cultural object from the surface or subsurface of state submerged lands.

(e) Salvage permits shall be issued for one year, with the option to renew the permit for additional one-year periods at the discretion of the commission upon a showing that the permitholder has diligently and lawfully pursued the permitted activity and has achieved to a reasonable extent the purpose for which the permit was issued.

(f) The commission may require that a person designated by the commission and paid by the permitholder be present during each phase of a salvage operation to observe and monitor compliance with the terms of the permit. The permitholder shall, upon the request of the commission, provide or pay for a reliable communication system for the observer to maintain contact with the office of the commission while on the salvage site.

(g) The commission may issue a permit for the search or recovery of nonhistoric vessels, aircraft, or submerged objects, and for the search, archaeological investigation, and recovery of historic vessels, aircraft, or other submerged historic resources as defined in subdivision (b) of Section 6313. The commission shall determine the appropriate type of permit to issue based on its evaluation of the salvage project and the project's probable impact on the site or objective, and the impact on the state submerged lands. The commission shall not require a permit for any recreational diving activity which does not disturb the subsurface or remove objects or materials from a submerged archaeological site or submerged historic resource as defined in Section 6313.

(h) (1) Permits may be revoked by the commission, after notice to the permitholder, at any time the commission finds that the permitholder has failed to comply with the terms of the permit or any law or regulation governing the permitted activity.

(2) A stop work order may be issued by the executive officer of the commission at the request of the onsite observer provided by subdivision (f), if the observer determines that the activities of the permitholder are not within the permitted activity. A stop work order shall be issued after the nonpermitted activity is brought to the attention of the person in charge of the onsite operation and that person fails or refuses after sufficient time and opportunity to change or correct the activity. Written notice of the stop work order shall be given to the person in charge of the onsite activity and a hearing by the executive officer or his or her designee shall be provided to the permitholder within three business days.

(3) After the hearing the commission may seek enforcement of, or the permitholder may seek relief from, the stop work order in the superior court in the county in which the activity is being conducted. The relief may include damages for failure to comply with the stop work order. The commission may deny an application for a permit when it finds that the applicant has failed to provide, for a period of 60 days, information specifically requested by the commission which is necessary to complete the application.

(i) When title to the objects, including a vessel, to be recovered is vested in the state, the commission shall provide for fair compensation

to the permitholder in terms of a percentage of the reasonable cash value, or a fair share, of the objects recovered. The reasonable cash value of the objects shall be determined by appraisal by qualified experts selected by the commission. The commission shall determine the amount constituting fair compensation, taking into consideration the circumstances of each case. Title to all objects recovered is retained by the state until it is released by the commission.

(j) The commission may fix and collect reasonable fees and costs for the processing and issuance of permits under this section. The applicant may be required to post a bond to ensure the completion of the project or payment of costs, or to deposit funds with the commission sufficient to cover costs and expenses chargeable to the applicant by law or by an agreement for reimbursement. If a bond is posted, the bond shall be held by the commission and shall be sufficient to cover all potential costs associated with the project, including preserving, restoring, and protecting the site and its associated finds.

SEC. 2. Section 6313 of the Public Resources Code is amended to read:

6313. (a) The title to all abandoned shipwrecks and all archaeological sites and historic resources on or in the tide and submerged lands of California is vested in the state. All abandoned shipwrecks and all submerged archaeological sites and submerged historic resources of the state shall be in the custody and subject to the control of the commission for the benefit of the people of the state of California. The commission may transfer title, custody, or control to other state agencies or recognized scientific or educational organizations, institutions, or individuals by appropriate legal conveyance.

(b) As used in this section, "submerged archaeological site" and "submerged historic resource," shall be given the broadest possible meaning, to include any submerged object, structure, building, watercraft, aircraft, or vessel and any associated cargo, armament, tackle, fixture, human remains, or remnant of those objects, or a site, area, person, or place, which is historically or archaeologically significant, or significant in the prehistory or history or exploration, settlement, engineering, commerce, militarism, recreation, or culture of California and that is partially or wholly embedded in or resting on state submerged or tidal lands.

(c) Sites with archaeological or historic significance shall be determined by reference to their eligibility for inclusion in the National Register of Historic Places or the California Register of Historical Resources. Any submerged archaeological site or submerged historic resource remaining in state waters for more than 50 years shall be presumed to be archaeologically or historically significant. The

commission, with the assistance of the State Office of Historic Preservation, shall identify, compile, and maintain an inventory of shipwreck sites, or sites of archaeological or historical significance and shall make the listing available to the public.

(d) Permits for salvage operations involving submerged archaeological sites or submerged historic resources may be granted by the commission when the proposed activity is justified by an educational, scientific, or cultural purpose, or the need to protect the integrity of the site or the resource. The commission may issue permits to individuals or organizations representing museums, universities, colleges, or other recognized scientific or educational institutions and individuals that demonstrate the capability to properly carry out archaeological investigations. The commission may deny an application for a permit to an applicant who the commission determines has not demonstrated the ability to properly conduct an archaeological investigation or salvage activities. The commission may consider the applicant's past conduct with regard to salvage operations when making this determination.

(e) (1) Prior to the issuance of a permit under subdivision (d), the applicant shall provide to the commission a detailed project design that includes all of the following:

(A) The purpose of the project.

(B) A description of the methodology, technology, and equipment to be employed.

(C) The project funding source.

(D) A timetable for the completion of the project.

(E) The composition, qualifications, and responsibilities of the project team.

(F) A conservation and curation plan, if applicable.

(G) A plan to document all phases of the project.

(H) A safety plan.

(I) An outline and timetable for preparation and submission of progress reports and a final report.

(J) Other information that the commission deems necessary to properly evaluate the application.

(2) All activities permitted under subdivision (d) or required by this subdivision shall be accomplished under the direct supervision of a person who meets the qualifications required of a professional marine archaeologist.

(f) The commission shall forward applications for permits for archaeological investigation or excavation and recovery of historic vessels, aircraft, or other submerged historic resources in state waters, including the information required by subdivision (e), to the State Office of Historic Preservation, and may provide the applications and

information to other qualified organizations and individuals, as appropriate, for technical review of the project design and recommendation concerning the preservation and protection of the site or resource.

(g) The commission shall provide for the disposition of all objects or other materials recovered, which may include provisions for display in museums, educational institutions, and other appropriate locations available to the public.

(h) The commission may contract with persons, firms, corporations, or institutions who, for the privilege of having temporary possession of recovered archaeological resources, will advance to the commission the money necessary to conduct salvage operations or to purchase from a permitholder, from his or her fair share, archaeological resources which the commission determines should remain the property of the state. A contract may be made only on the condition that the commission may, at any time, repay the money advanced, without interest or additional charges of any kind, and recover possession of the resources. During the time the resources are in the possession of the entity advancing the money, the resources shall be available for viewing by the general public at a nominal fee or without charge.

(i) The commission may also contract with other state agencies, qualified public or private institutions, local governments, or individuals for public display of the archaeological resources recovered. The commission shall require assurances that appropriate security, qualified personnel, insurance, and facilities for preservation, restoration, and display of the resources loaned are provided under the contract.

SEC. 3. Section 6314 of the Public Resources Code is amended to read:

6314. (a) A person who removes, without authorization from the commission, or a person who destroys or damages an archaeological site or any historic resource, that is located on or in the submerged lands of, and which is the property of, the state, is guilty of a misdemeanor and is punishable by imprisonment in the county jail not to exceed six months or a fine not to exceed five thousand dollars ($5,000), or by both.

(b) The commission, or, at its request, the Attorney General or a district attorney in whose jurisdiction the violation occurred, may seek civil damages for the damage, loss, or destruction of abandoned shipwrecks, their gear or cargo, or any archaeological site or historic resource located on or in submerged lands of the state. A vessel used to damage, destroy, or cause the loss of, any such shipwreck or archaeological site or historic resource is subject to a proceeding in rem by the state for the costs and damages resulting from that damage, destruction, or loss. Enforcement may include, where appropriate, a

restraining order or injunctive relief to restrain and enjoin violations or threatened violations of Section 6309, Section 6313, or this section and for the return of items taken in violation of these sections.

(c) An artifact, object, or material which has been removed from a state submerged archaeological site or submerged historic resource, as specified in subdivision (a), and which is found in any watercraft occupied by persons who do not hold a permit as required by Section 6309 or Section 6313 or other reasonable evidence of legal possession is prima facie evidence of violation of that section and the artifact, object, or material may be confiscated by any state, federal, or local law enforcement officer. Artifacts, objects, or materials confiscated under this section shall be returned to the person claiming ownership, upon proof of ownership or legal right to possession, within 30 days of their confiscation, unless a prosecuting attorney determines that they are required as evidence in the prosecution of a criminal violation.

(d) In a case in which a district attorney, at the request of the commission, or with its concurrence, enforces subdivision (a), the commission shall, notwithstanding Section 1463 of the Penal Code, be entitled to an equal division of the fine imposed.

(e) All state and local law enforcement agencies and officers are directed to assist in enforcing this section, and are requested to work with and seek the cooperation of federal law enforcement agencies, including deputizing federal officers when appropriate.

CHAPTER 136

An act to amend Section 43.92 of the Civil Code, relating to personal rights.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 43.92 of the Civil Code is amended to read:

43.92. (a) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is a psychotherapist as defined in Section 1010 of the Evidence Code in failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except where the patient has communicated to the psychotherapist a serious

threat of physical violence against a reasonably identifiable victim or victims.

(b) There shall be no monetary liability on the part of, and no cause of action shall arise against, a psychotherapist who, under the limited circumstances specified above, discharges his or her duty to warn and protect by making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.

CHAPTER 137

An act to amend Sections 10102 and 10103 of the Insurance Code, relating to residential property insurance.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 10102 of the Insurance Code is amended to read:

10102. (a) The disclosure required by Section 10101 shall be in no less than 10-point typeface and shall be provided prior to or concurrent with, the application for a policy of residential property insurance. In the event that an application is made by telephone, an insurer that mails a copy of the disclosure within three business days shall be in compliance with this section. For policies issued on or after July 1, 1993, the agent or insurer shall obtain the applicant's signature acknowledging receipt of the disclosure form within 60 days of the date of the application. When the insurer or agent establishes delivery of the disclosure form by obtaining the signature of the applicant or insured, or when an insurer or agent provides the applicant with the disclosure form and the applicant does not return a signed acknowledgment of receipt within 60 days of the date it was provided, there shall be a conclusive presumption that the insurer or agent has complied with the disclosure requirement of this chapter. The insurer or agent shall have the burden of demonstrating in accordance with California Rules of Evidence that the disclosure was provided to the applicant or insured. A signature shall not be required at the time of renewal.

If the disclosure is mailed to the named insured or applicant, it shall be mailed to the mailing address shown on the policy of residential property insurance or to the address requested by the applicant. First-class mail shall be deemed adequate for proof of mailing. The insurer shall

have the burden of demonstrating in accordance with California Rules of Evidence that the disclosure was mailed to the applicant or insured.

The disclosure shall contain the following language:

CALIFORNIA RESIDENTIAL PROPERTY INSURANCE DISCLOSURE

This disclosure is required by California law (Section 10102 of the Insurance Code). It describes the principal forms of insurance coverage in California for residential dwellings. It also identifies the form of dwelling coverage you have purchased or selected.

This disclosure form contains only a general description of coverages and is not part of your residential property insurance policy. Only the specific provisions of your policy will determine whether a particular loss is covered and, if so, the amount payable. Regardless of which type of coverage you purchase, your policy may exclude or limit certain risks.

READ YOUR POLICY CAREFULLY. If you do not understand any part of it or have questions about what it covers, contact your insurance agent or company. You may also call the California Department of Insurance consumer information line at: 1-800-927-4357.

The cost to rebuild your home may be very different from the market value of your home since reconstruction is based primarily on the cost of labor and materials. Many factors can affect the cost to rebuild your home, including the size of your home, the type of construction, and any unique features. Please review the following coverages carefully. If you have questions regarding the level of coverage in your policy, please contact your insurance agent or company. Additional coverage may be available for an additional premium.

FORMS OF COVERAGE FOR DWELLINGS	Dwelling Coverage selected or purchased
TEED REPLACEMENT COST COVERAGE WITH FULL BUILDING PGRADE PAYS REPLACEMENT COSTS WITHOUT REGARD TO IMITS, AND INCLUDES COSTS RESULTING FROM CODE CHANGES. nt of any covered loss to your home, the insurance company will pay the full eded to repair or replace the damaged or destroyed dwelling with like or construction regardless of policy limits. Your policy will specify whether actually repair or replace the damaged or destroyed dwelling in order to aranteed replacement cost. The amount of recovery will be reduced by any you have agreed to pay. age includes all additional costs of repairing or replacing your damaged or dwelling to comply with any new building standards (such as building codes aws) required by government agencies and in effect at the time of rebuilding. ble to recover full guaranteed replacement costs with building code upgrade, nsure the dwelling to its full replacement cost at the time the policy is issued, ble periodic increases in the amount of coverage to adjust for inflation and n building costs; you must permit inspections of the dwelling by the insurance and you must notify the insurance company about any alterations that increase f the insured dwelling by a certain amount (see your policy for that amount).	
TEED REPLACEMENT COST COVERAGE WITH LIMITED OR NO G CODE UPGRADE PAYS REPLACEMENT COSTS WITHOUT TO POLICY LIMITS BUT LIMITS OR EXCLUDES COSTS RESULTING DE CHANGES. nt of any covered loss to your home, the insurance company will pay the full eded to repair or replace the damaged or destroyed dwelling with like or construction regardless of policy limits. Your policy will specify whether actually repair or replace the damaged or destroyed dwelling in order to aranteed replacement cost. The amount of recovery will be reduced by any you have agreed to pay. rage does not include all additional costs of repairing or replacing your or destroyed dwelling to comply with any new building standards (such as odes or zoning laws) required by government agencies and in effect at the building. Consult your policy for the applicable exclusions or limits with these costs. ble to recover full guaranteed replacement cost with limited or no building de, you must insure the dwelling to its full replacement cost at the time the sued, with possible periodic increases in the amount of coverage to adjust on and increases in building costs; you must permit an inspection of the y the insurance company; and you must notify the insurance company about ions that increase the value of the insured dwelling by a certain amount (see y for that amount).	
REPLACEMENT COST COVERAGE WITH AN ADDITIONAL TAGE PAYS REPLACEMENT COSTS UP TO A SPECIFIED AMOUNT HE POLICY LIMIT. nt of any covered loss to your home, the insurance company will pay to replace the damaged or destroyed dwelling with like or equivalent on up to a specified percentage over the policy'	

FORMS OF COVERAGE FOR DWELLINGS	Dwelling Coverage selected or purchased
ns page of your policy for the limit that applies to your dwelling. Your l specify whether you must actually repair or replace the damaged or dwelling in order to recover this benefit. The amount of recovery will d by any deductible you have agreed to pay. ible for this coverage, you must insure the dwelling to its full replacement time the policy is issued, with possible periodic increases in the amount ge to adjust for inflation; you must permit an inspection of the dwelling urance company; and you must notify the insurance company about any s that increase the value of the insured dwelling by a certain amount (see cy for that amount). Read your declaration page to determine whether cy includes coverage for building code upgrades.	
D REPLACEMENT COST COVERAGE WITH NO ADDITIONAL TAGE PAYS REPLACEMENT COSTS UP TO POLICY LIMITS ONLY. nt of any covered loss to your home, the insurance company will pay to replace the damaged or destroyed dwelling with like or equivalent on only up to the policy's limit. See the declarations page of your policy mit that applies to your dwelling. Your policy will specify whether you ally repair or replace the damaged or destroyed dwelling in order to is benefit. The amount of recovery will be reduced by any deductible agreed to pay. To be eligible to recover this benefit, you must insure the o [company shall denote percentage] [ ] percent of its replacement cost e of loss. Read your declaration page to determine whether your policy overage for building code upgrades.	
CASH VALUE COVERAGE PAYS THE FAIR MARKET VALUE OF ELLING AT THE TIME OF THE LOSS, OR THE COST TO REPAIR, D, OR REPLACE THE DAMAGED OR DESTROYED DWELLING KE KIND AND QUALITY CONSTRUCTION, UP TO THE POLICY nt of any covered loss to your home, the insurance company will pay fair market value of the damaged or destroyed dwelling (excluding the and) at the time of the loss or the cost to repair, rebuild, or replace the or destroyed dwelling with like kind and quality construction up to the it, with possible consideration of physical depreciation. The amount of will be reduced by any deductible you have agreed to pay. Read your n page to determine whether your policy includes coverage for building ades.	
G CODE UPGRADE—ORDINANCE AND LAW COVERAGE PAYS, UP TS SPECIFIED IN YOUR POLICY, ADDITIONAL COSTS REQUIRED G THE DWELLING "UP TO CODE." nt of any covered loss, the insurance company will pay any additional to the stated limits, of repairing or replacing a damaged or destroyed o conform with any building standards such as building codes or zoning ired by government agencies and in effect at the time of the loss or (see your policy).	

(b) The agent or insurer shall indicate on the disclosure form which category of coverage the applicant or insured has selected or purchased.

(c) The disclosure statement may contain additional provisions not in conflict with or in derogation of the foregoing.

(d) Following the issuance of the policy of residential property insurance, the insurer shall provide the disclosure statement to the insured on an every-other-year basis at the time of renewal. The disclosure required by this section may be transmitted with the material required by Section 10086.1.

(e) No policy of residential property insurance may be initially issued on and after January 1, 1993, as guaranteed replacement cost coverage if it contains any maximum limitation of coverage based on any set dollar limits, percentage amounts, construction cost limits, indexing, or any other preset maximum limitation for covered damage to the insured dwelling. The limitations referred to in this section are solely applicable to dwelling structure coverages. Endorsements covering additional risks to the insurer's dwelling structure coverage may have internal limits as long as those endorsements are not called guaranteed replacement cost coverage.

(f) On and after July 1, 1993, no policy of residential property insurance may be renewed as guaranteed replacement cost coverage if it contains any maximum limitation of coverage based on any set dollar limits, percentage amounts, construction cost limits, indexing, or any other preset maximum limitation for covered damage to the insured dwelling. The limitations referred to in this section are solely applicable to dwelling structure coverages. Endorsements covering additional risks to the insurer's dwelling structure coverage may have internal limits as long as those endorsements are not called guaranteed replacement cost coverage.

(g) Coverage provided for building code upgrades by a policy of residential property insurance shall be applicable to building codes, ordinances, standards, or laws only to the extent that those codes, ordinances, standards, or laws do not impose stricter standards on the property on the basis of the level of insurance coverage applicable to the property.

(h) The disclosure required by Section 10101 shall also be provided to the mortgagor in the event that a policy is forced placed by an insurer at the request of a mortgagee. In such cases, neither the insurer nor the mortgagee shall be required to obtain a signature from the mortgagor. No disclosure shall be required to be provided with respect to blanket policies issued to a mortgagee, and designed to provide interim coverage for losses occurring prior to the mortgagee obtaining knowledge of the

lapse of the policy and prior to placement of a policy on behalf of the mortgagor.

(i) On and after July 1, 1994, insurers shall add to the disclosure, in no less than 10-point type the following statement:

This disclosure form does not explain the types of contents coverage (furniture, clothing, etc.) provided by your policy. Some policies do not replace contents with new items, but instead, only pay for the current market value of an item. If you have any questions, contact your insurer or agent.

(j) No later than December 1, 2005, the commissioner shall report to the Governor and the Legislature on the status of the issues regarding residential property insurance and the effectiveness of the California Residential Property Insurance Disclosure.

SEC. 2. Section 10103 of the Insurance Code is amended to read:

10103. (a) No policy of residential property insurance may be issued or renewed in this state unless it provides the following information on the declarations page of the policy:

(1) The limits of liability for the structure.

(2) The following statement regarding the valuation of the structure:

"The limit of liability for this structure (Coverage A) is based on an estimate of the cost to rebuild your home, including an approximate cost for labor and materials in your area, and specific information that you have provided about your home."

(3) Limits of liability for personal property.

(4) Deductibles.

(5) Whether the policy provides coverage for the increased costs of repairing or replacing damage to the insured dwelling caused by a covered loss because of building ordinances or laws regulating the repair. In the event that no coverage is provided for repairs that result from new building ordinances or laws, the insurer shall include in no less than 10-point typeface the following statement: "THIS POLICY DOES NOT INCLUDE BUILDING CODE UPGRADE COVERAGE."

(b) In the event that the policy does include code upgrade coverage, it shall either:

(1) State this on the declaration page, and denote any applicable limits.

(2) State this on a separate disclosure form attached to the declarations page, if the separate disclosure form meets the following standards:

(A) It is printed in not less than 10-point typeface.

(B) It denotes any applicable limits on the amount of coverage.

(C) It denotes restrictions, if any, on coverage for compliance with applicable building codes which take effect after the date of loss but prior to the issuance of required building permits.

(c) The provisions of paragraphs (1) and (2) of subdivision (a) are not required for policies purchased by tenants or unit owners that do not cover the structure of the premises.

CHAPTER 138

An act to amend Section 3104 of the Family Code, relating to minor children.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 3104 of the Family Code is amended to read:

3104. (a) On petition to the court by a grandparent of a minor child, the court may grant reasonable visitation rights to the grandparent if the court does both of the following:

(1) Finds that there is a preexisting relationship between the grandparent and the grandchild that has engendered a bond such that visitation is in the best interest of the child.

(2) Balances the interest of the child in having visitation with the grandparent against the right of the parents to exercise their parental authority.

(b) A petition for visitation under this section may not be filed while the natural or adoptive parents are married, unless one or more of the following circumstances exist:

(1) The parents are currently living separately and apart on a permanent or indefinite basis.

(2) One of the parents has been absent for more than one month without the other spouse knowing the whereabouts of the absent spouse.

(3) One of the parents joins in the petition with the grandparents.

(4) The child is not residing with either parent.

(5) The child has been adopted by a stepparent.

At any time that a change of circumstances occurs such that none of these circumstances exist, the parent or parents may move the court to terminate grandparental visitation and the court shall grant the termination.

(c) The petitioner shall give notice of the petition to each of the parents of the child, any stepparent, and any person who has physical custody of the child, by personal service pursuant to Section 415.10 of the Code of Civil Procedure.

(d) If a protective order as defined in Section 6218 has been directed to the grandparent during the pendency of the proceeding, the court shall consider whether the best interest of the child requires that any visitation by that grandparent should be denied.

(e) There is a rebuttable presumption that the visitation of a grandparent is not in the best interest of a minor child if the natural or adoptive parents agree that the grandparent should not be granted visitation rights.

(f) There is a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interest of a minor child if the parent who has been awarded sole legal and physical custody of the child in another proceeding, or the parent with whom the child resides if there is currently no operative custody order objects to visitation by the grandparent.

(g) Visitation rights may not be ordered under this section if that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(h) Visitation ordered pursuant to this section shall not create a basis for or against a change of residence of the child, but shall be one of the factors for the court to consider in ordering a change of residence.

(i) When a court orders grandparental visitation pursuant to this section, the court in its discretion may, based upon the relevant circumstances of the case:

(1) Allocate the percentage of grandparental visitation between the parents for purposes of the calculation of child support pursuant to the statewide uniform guideline (Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9).

(2) Notwithstanding Sections 3930 and 3951, order a parent or grandparent to pay to the other, an amount for the support of the child or grandchild. For purposes of this paragraph, "support" means costs related to visitation such as any of the following:

(A) Transportation.

(B) Provision of basic expenses for the child or grandchild, such as medical expenses, day care costs, and other necessities.

(j) As used in this section, "birth parent" means "birth parent" as defined in Section 8512.

CHAPTER 139

An act to amend Section 47652 of the Education Code, relating to school funding.

[Approved by Governor August 22, 2006. Filed with
Secretary of State August 22, 2006.]

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

SECTION 1. Section 47652 of the Education Code is amended to read:

47652. (a) Notwithstanding Section 41330, a charter school in its first year of operation shall be eligible to receive funding for the advance apportionment based on an estimate of average daily attendance for the current fiscal year, as approved by the local educational agency that granted its charter and the county office of education in which the charter-granting agency is located. For charter schools approved by the state board, estimated average daily attendance shall be submitted directly to, and approved by, the department. Not later than five business days following the end of the first 20 schooldays, a charter school receiving funding pursuant to this section shall report to the department its actual average daily attendance for that first month, and the Superintendent shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.

(b) In addition to funding received pursuant to Section 41330, a charter school in its second or later year of operation also shall be eligible to receive an advance apportionment pursuant to the process and conditions described in subdivision (a) in any year in which the charter school is adding at least one grade level. The average daily attendance funded for a new grade level shall not exceed the portion of the certified average daily attendance at the second principal apportionment for the prior year that was attributable to pupils in the highest grade served by the charter school.

(c) A charter school in its first year of operation may only commence instruction within the first three months of the fiscal year beginning July 1 of that year. A charter school shall not be eligible for an apportionment pursuant to subdivision (a), or any other apportionment for a fiscal year in which instruction commenced after September 30 of that fiscal year.

CHAPTER 140

An act to amend Section 115800 of the Health and Safety Code, relating to recreational activities.

[Approved by Governor August 22, 2006. Filed with
Secretary of State August 22, 2006.]

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

SECTION 1. Section 115800 of the Health and Safety Code, as amended by Section 1 of Chapter 409 of the Statutes of 2002, is amended to read:

115800. (a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and knee pads.

(b) With respect to any facility, owned or operated by a local public agency, that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements of subdivision (a) may be satisfied by compliance with the following:

(1) Adoption by the local public agency of an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads.

(2) The posting of signs at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under the ordinance required by paragraph (1).

(c) "Local public agency" for purposes of this section includes, but is not limited to, a city, county, or city and county.

(d) (1) Skateboarding at any facility or park owned or operated by a public entity as a public skateboard park, as provided in paragraph (3), shall be deemed a hazardous recreational activity within the meaning of Section 831.7 of the Government Code if all of the following conditions are met:

(A) The person skateboarding is 12 years of age or older.

(B) The skateboarding activity that caused the injury was stunt, trick, or luge skateboarding.

(C) The skateboard park is on public property that complies with subdivision (a) or (b).

(2) In addition to the provisions of subdivision (c) of Section 831.7 of the Government Code, nothing in this section is intended to limit the liability of a public entity with respect to any other duty imposed pursuant to existing law, including the duty to protect against dangerous conditions of public property pursuant to Chapter 2 (commencing with Section 830) of Part 2 of Division 3.6 of Title 1 of the Government Code. However, nothing in this section is intended to abrogate or limit any other legal rights, defenses, or immunities that may otherwise be available at law.

(3) For public skateboard parks that were constructed on or before January 1, 1998, this subdivision shall apply to hazardous recreational activity injuries incurred on or after January 1, 1998, and before January

1, 2001. For public skateboard parks that are constructed after January 1, 1998, this subdivision shall apply to hazardous recreational activity injuries incurred on or after January 1, 1998, and before January 1, 2012. For purposes of this subdivision, any skateboard facility that is a movable facility shall be deemed constructed on the first date it is initially made available for use at any location by the local public agency.

(4) The appropriate local public agency shall maintain a record of all known or reported injuries incurred by a skateboarder in a public skateboard park or facility. The local public agency shall also maintain a record of all claims, paid and not paid, including any lawsuits and their results, arising from those incidents that were filed against the public agency. Beginning in 1999, copies of these records shall be filed annually, no later than January 30 each year, with the Judicial Council, which shall submit a report to the Legislature on or before March 31, 2011, on the incidences of injuries incurred, claims asserted, and the results of any lawsuit filed, by persons injured while skateboarding in public skateboard parks or facilities.

(5) This subdivision shall not apply on or after January 1, 2001, to public skateboard parks that were constructed on or before January 1, 1998, but shall continue to apply to public skateboard parks that are constructed after January 1, 1998.

(e) This section shall remain in effect until January 1, 2012, and as of that date is repealed, unless a later enacted statute, enacted before January 1, 2012, deletes or extends that date.

SEC. 2. Section 115800 of the Health and Safety Code, as amended by Section 2 of Chapter 409 of the Statutes of 2002, is amended to read:

115800. (a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and knee pads.

(b) With respect to any facility, owned or operated by a local public agency, that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements of subdivision (a) may be satisfied by compliance with the following:

(1) Adoption by the local public agency of an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads.

(2) The posting of signs at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under the ordinance required by paragraph (1).

(c) "Local public agency" for purposes of this section includes, but is not limited to, a city, county, or city and county.

(d) This section shall become operative on January 1, 2012.

CHAPTER 141

An act to amend Section 11102.1 of the Penal Code, relating to fingerprinting.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 11102.1 of the Penal Code is amended to read:

11102.1. (a) (1) Notwithstanding any other provision of law, the Department of Justice shall establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll fingerprint impressions, manually or electronically, for non-law-enforcement purposes. Except as provided in paragraph (2), no person shall roll fingerprints for non-law-enforcement purposes unless certified.

(2) The following persons shall be exempt from this section if they have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation:

(A) Law enforcement personnel and state employees.

(B) Employees of a tribal gaming agency or a tribal gaming operation, provided that the fingerprints are rolled and submitted to the Division of Gambling Control in the Department of Justice for purposes of compliance with a tribal-state compact.

(3) The department shall not accept fingerprint impressions for non-law-enforcement purposes unless they were rolled by an individual certified or exempted pursuant to this section.

(b) Individuals who roll fingerprint impressions, either manually or electronically, for non-law-enforcement purposes, must submit to the Department of Justice fingerprint images and related information, along with the appropriate fees and documentation. The department shall retain one copy of the fingerprint impressions to process a state level criminal background clearance, and it shall submit one copy of the fingerprint impressions to the Federal Bureau of Investigation to process a federal level criminal background clearance.

(c) The department shall retain the fingerprint impressions for subsequent arrest notification pursuant to Section 11105.2.

(d) Every individual certified as a fingerprint roller shall meet the following criteria:

(1) Be a legal resident of this state at the time of certification.

(2) Be at least 18 years of age.

(3) Have satisfactorily completed a notarized written application prescribed by the department to determine the fitness of the person to exercise the functions of a fingerprint roller.

(e) Prior to granting a certificate as a fingerprint roller, the department shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position.

(f) (1) The department shall refuse to certify any individual as a fingerprint roller, and shall revoke the certification of any fingerprint roller, upon either of the following:

(A) Conviction of a felony offense.

(B) Conviction of any other offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(2) A conviction after a plea of nolo contendere is deemed to be a conviction for purposes of this subdivision.

(g) In addition to subdivision (f), the department may refuse to certify any individual as a fingerprint roller, and may revoke or suspend the certification of any fingerprint roller upon any of the following:

(1) Substantial and material misstatement or omission in the application submitted to the department.

(2) Arrest pending adjudication for a felony.

(3) Arrest pending adjudication for a lesser offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(4) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct, dishonesty, or for any cause substantially related to the duties or responsibilities of a fingerprint roller.

(5) Failure to discharge fully and faithfully any of the duties or responsibilities required of a fingerprint roller.

(6) When adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties of a fingerprint roller.

(7) Use of false or misleading advertising in which the fingerprint roller has represented that he or she has duties, rights, or privileges that he or she does not possess by law.

(8) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the fingerprint roller or another, or to substantially injure another.

(9) Failure to submit any remittance payable upon demand by the department under this section or failure to satisfy any court ordered money judgment, including restitution.

(h) The Department of Justice shall work with applicant regulatory entities to improve and make more efficient the criminal offender record information request process related to employment, licensing, and certification background investigations.

(i) The Department of Justice may adopt regulations as necessary to implement the provisions of this section.

(j) The department shall charge a fee sufficient to cover its costs under this section.

CHAPTER 142

An act to amend Sections 132351.1 and 132351.2 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 132351.1 of the Public Utilities Code is amended to read:

132351.1. (a) A board of directors consisting of 21 members shall govern the consolidated agency.

(b) For purposes of this chapter, "governing body" shall mean the board of supervisors, council, council and mayor where the mayor is not a member of the council, authority, trustees, director, commission, committee, or other policymaking body, as appropriate, that exercises authority over an entity represented on the board of the consolidated agency.

(c) All powers, privileges, and duties vested in or imposed upon the consolidated agency shall be exercised and performed by and through a board of directors provided, however, that the exercise of all executive, administrative, and ministerial power may be delegated and redelegated by the board, to any of the offices, officers, or committees created pursuant to this chapter or created by the board acting pursuant to this chapter.

(d) The board shall be composed of one primary representative selected by the governing body of each city in the county and a member of the San Diego County Board of Supervisors to serve until recalled by the governing body of the city or county. The City of San Diego and the County of San Diego shall each have a primary and secondary representative. Each director shall be a mayor, councilperson, or supervisor of the governing body which selected him or her. Vacancies shall be filled in the same manner as originally selected. Each city or county shall also select in the same manner as the primary or secondary representative, if applicable, one alternate to serve on the board when the primary or secondary representative, if applicable, is not available. The alternate shall be subject to the same restrictions and have the same powers, when serving on the board, as the representative for whom he or she is substituting.

(e) Notwithstanding subdivision (d), in those years when the chair of the San Diego County Board of Supervisors is from a district that is substantially an incorporated area and is appointed the primary representative to the board, a supervisor who represents a district that is substantially an unincorporated area shall be appointed to the board as the secondary representative. Alternatively, in those years when the chair of the San Diego County Board of Supervisors is from a district that is substantially an unincorporated area and is appointed the primary representative to the board, a supervisor who represents a district that is substantially an incorporated area shall be appointed to the board as the secondary representative.

(f) At its discretion, each city and county may select a second alternate, in the same manner as the primary representative, to serve on the board in the event that neither the primary representative nor the regular alternate is able to attend a meeting of the board. This alternate shall be subject to the same restrictions and have the same powers, when serving on the board, as the primary representative.

(g) The board may allow for the appointment of advisory representatives to sit with the board but in no event shall said representatives be allowed a vote. The current advisory representatives to the San Diego Association of Governments may continue their advisory representation on the consolidated agency at the discretion of their governing body. The governing bodies of the County of Imperial and the cities in that county may collectively designate an advisory representative to sit with the board.

SEC. 2. Section 132351.2 of the Public Utilities Code is amended to read:

132351.2. (a) A majority of the member agencies constitute a quorum for the transaction of business. In order to act on any item, except consent

items which only require the vote specified in paragraph (1), the following voting formula in both paragraphs (1) and (2) shall apply:

(1) A majority vote of the members present on the basis of one vote per agency.

(2) A majority of the weighted vote of the member agencies present.

(b) The governing body of the City of San Diego and the County of San Diego, as appropriate, shall determine how to allocate their single agency votes and weighted votes between their primary and secondary members.

(c) For the weighted vote, there shall be a total of 100 votes, except additional votes shall be allowed pursuant to subdivision (f). Each representative shall have that number of votes determined by the following apportionment formula, provided that each agency shall have at least one vote, no agency shall have more than 40 votes, and there shall be no fractional votes:

(1) If any agency has 40 percent or more of the total population of the San Diego County region, allocate 40 votes to that agency and follow paragraph (2), if not, follow paragraph (3).

(2) Total the population of the remaining agencies determined in paragraph (1) and compute the percentage of this total that each agency has.

(A) Multiply each percentage derived above by 60 to determine fractional shares.

(B) Boost fractions that are less than one, to one and add the whole numbers.

(C) If the answer to subparagraph (B) is 60, drop all fractions and the whole numbers are the votes for each agency.

(D) If the answer to subparagraph (B) is less than 60, the remaining vote(s) is allocated one each to that agency(s) having the highest fraction(s) excepting those whose vote was increased to one in subparagraph (B) above.

(E) If the answer to subparagraph (B) is more than 60, the excess vote(s) is taken one each from the agency(s) with the lowest fraction(s). In no case shall a vote be reduced to less than one.

(3) Total the population determined in paragraph (1) and compute the percentage of this total that each agency has.

(A) Boost fractions that are less than one, to one and add the whole numbers.

(B) If the answer to subparagraph (A) is 100, drop all fractions and the whole numbers are the votes for each agency.

(C) If the answer to subparagraph (A) is less than 100, the remaining vote(s) is allocated one each to that agency(s) having the highest

fraction(s) excepting those whose vote was increased to one in subparagraph (A) above.

(D) If the answer to subparagraph (A) is more than 100, the excess vote(s) is taken one each from that agency(s) with the lowest fraction(s). In no case shall a vote be reduced to less than one.

(d) When a weighted vote is taken on any item that requires more than a majority vote of the board, it shall also require the supermajority percentage of the weighted vote.

(e) The weighted vote shall be recomputed in the above manner every July 1.

(f) Any other newly incorporated city shall receive one vote under the single vote procedure and one vote under the weighted vote procedure specified above until the next recomputation of the weighted vote, at which time the new agency shall receive votes in accordance with the formula specified in subdivision (b). Until this recomputation, the total weighted vote may exceed 100.

CHAPTER 143

An act to amend Section 25143.1 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 25143.1 of the Health and Safety Code is amended to read:

25143.1. (a) Any geothermal waste resulting from drilling for geothermal resources is exempt from the requirements of this chapter because the disposal of these geothermal wastes is regulated by the California regional water quality control boards.

(b) (1) Wastes from the extraction, beneficiation, and processing of ores and minerals that are not subject to regulation under the federal act are exempt from the requirements of this chapter, except the requirements of Article 9.5 (commencing with Section 25208), as provided in paragraph (2).

(2) The wastes subject to this subdivision are subject to Article 9.5 (commencing with Section 25208) and Chapter 6.8 (commencing with Section 25300) if the wastes would otherwise be classified as hazardous

wastes pursuant to Section 25117 and the regulations adopted pursuant to Section 25141.

(3) For purposes of this subdivision, the following definitions shall apply:

(A) "Wastes from the extraction, beneficiation, and processing of ores and minerals" means any of the following:

(i) Soil, waste rock, overburden, and any other solid, semisolid, or liquid natural materials that are removed, unearthed, or otherwise displaced as a result of excavating or recovering an ore or a mineral.

(ii) Residuals of ores or minerals after those ores or minerals have been removed, unearthed, or otherwise displaced from their natural sites and physically or chemically treated or otherwise managed in order to separate or concentrate the commercial product present in the ore or mineral, or processed to produce a final marketable product.

(B) "Minerals" has the same meaning as defined in Section 2005 of the Public Resources Code.

(c) (1) Except as provided in paragraphs (3) and (4), geothermal waste, excluding filter cake, that is generated from the exploration, development, or production of geothermal energy and that does not result from drilling for geothermal resources, is exempt from the requirements of this chapter, if the geothermal waste meets either of the following requirements:

(A) The geothermal waste is contained within a piping system, nonearthen trench, or descaling area, or within related equipment, that is associated with the geothermal plant where the waste was generated.

(B) The geothermal waste is within the physical boundaries of a lined surface impoundment associated with the geothermal plant where the waste was generated.

(2) If geothermal waste that is exempted pursuant to subparagraph (B) of paragraph (1) is relocated to an elevated location inside a lined surface impoundment for dewatering, that waste shall be removed from the surface impoundment within 30 days of the relocation and while the waste still contains sufficient moisture to prevent wind dispersion, except for residuals that are impractical to remove. The geothermal waste shall be deemed to be generated at the time of removal and shall be properly managed as hazardous waste pursuant to the requirements of this chapter.

(3) Any geothermal waste that is exempt pursuant to this subdivision ceases to be exempt from the requirements of this chapter, and shall be deemed to have been generated, when any of the following occur:

(A) It is no longer contained in one or more of the following, as described in subparagraph (A) or (B) of paragraph (1):

(i) A piping system.

(ii) Nonearthen trench.

(iii) Descaling area.

(iv) Related equipment.

(v) Lined surface impoundment.

(B) It is left in a geothermal piping system, a related piping system, a nonearthen trench, a descaling area, or another piece of related equipment 18 months after the date the geothermal power plant last produced power, unless prior to that date the operator submits a written notification, as described in paragraph (4) to the department, and the department acknowledges the notification in writing.

(C) It is left in a lined surface impoundment and at any time poses an imminent potential threat to areas outside the surface impoundment due to windblown fugitive dusts.

(D) It remains in a unit no longer actively regulated by the regional water quality control board.

(E) It is left in a lined surface impoundment 18 months after the date the surface impoundment has last received waste, unless prior to that date the operator submits a written notification as described in paragraph (4) to the department, and the department acknowledges the notification in writing.

(4) The notification that is required to be submitted by an operator pursuant to subparagraphs (B) and (E) of paragraph (3) shall contain all of the following information:

(A) The name and address of the operator, and the address and physical location of the plant or surface impoundment in which the waste will be stored.

(B) Estimated dates on which the units will resume operation.

(C) A description of how the waste will be stored and managed, demonstrating to the department that the waste will not pose a significant hazard to human health and safety or the environment.

(5) This subdivision does not exempt hazardous waste that is either not directly associated with geothermal energy exploration, development, and production, or that is not exempted from the federal act pursuant to paragraph (5) of subdivision (b) of Section 261.4 of Title 40 of the Code of Federal Regulations, or both. Hazardous waste that is not exempted pursuant to this subdivision includes, but is not limited to, used oil generated from vehicles or the lubrication of machinery.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the safe handling of geothermal wastes that result from the exploration, development, or production of geothermal energy, thereby better protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 144

An act to amend Section 42310.3 of the Public Resources Code, relating to recycling.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 42310.3 of the Public Resources Code is amended to read:

42310.3. (a) Notwithstanding Section 42310, a manufacturer is in compliance with the requirements of this chapter if the manufacturer demonstrates through its own actions, or the actions of another company under the same corporate ownership, that one of the following actions were taken during the same period for which the manufacturer is subject to this chapter, with regard to a rigid plastic packaging container that stores the manufacturer's product that is sold or intended for sale in this state:

(1) The manufacturer, or another company under the same corporate ownership, consumed postconsumer material generated in the state in the manufacture of a rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging not subject to that section, and that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(2) The manufacturer, or any company under the same corporate ownership, arranged by contractual agreement for the purchase and consumption of postconsumer material generated in the state and exported

to another state for the manufacture of rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging not subject to that section that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(b) The board shall determine the manner of demonstrating compliance with the requirements of this section.

CHAPTER 145

An act to amend Sections 791.15 and 791.16 of the Insurance Code, relating to insurance.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 791.15 of the Insurance Code is amended to read:

791.15. (a) Whenever the commissioner has reason to believe that an insurance institution, agent or insurance-support organization has been or is engaged in conduct in this state which violates this article, or if the commissioner believes that an insurance-support organization has been or is engaged in conduct outside this state which has an effect on a person residing in this state and which violates this article, the commissioner shall issue and serve upon such insurance institution, agent or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than 30 days after the date of service.

(b) At the time and place fixed for such hearing the insurance institution, agent or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

(c) At any hearing conducted pursuant to this section the commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which

are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the commissioner. If no stenographic record is made and if judicial review is sought, the commissioner shall prepare a statement of the evidence for use on review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted under the laws of this state.

(d) Statements of charges, notice, orders and other processes of the commissioner under this article may be served by anyone duly authorized to act on behalf of the commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail or by a mailing service offered by a third party mailing service with tracking capability that is not more expensive than registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this article have been allegedly violated. A verified return setting forth the manner of service, the return postcard receipt in the case of registered mail, or signed receipt documentation, shall be sufficient proof of service.

SEC. 2. Section 791.16 of the Insurance Code is amended to read:

791.16. For the purpose of this article, an insurance-support organization transacting business outside this state that has an effect on a person residing in this state shall be deemed to have appointed the commissioner to accept service of process on its behalf, provided the commissioner causes a copy of the service to be mailed immediately by registered mail, or by a mailing service offered by a third party mailing service with tracking capability that is not more expensive than registered mail, to the insurance-support organization at its last known principal place of business. The return postcard receipt or signed receipt documentation for the mailing shall be sufficient proof that the same was properly mailed by the commissioner.

CHAPTER 146

An act to amend Section 629.50 of the Penal Code, relating to interception of communications.

[Approved by Governor August 22, 2006. Filed with Secretary of State August 22, 2006.]

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

SECTION 1. Section 629.50 of the Penal Code is amended to read:

629.50. (a) Each application for an order authorizing the interception of a wire, electronic pager, or electronic cellular telephone communication shall be made in writing upon the personal oath or affirmation of the Attorney General, Chief Deputy Attorney General, or Chief Assistant Attorney General, Criminal Law Division, or of a district attorney, or the person designated to act as district attorney in the district attorney's absence, to the presiding judge of the superior court or one other judge designated by the presiding judge. An ordered list of additional judges may be authorized by the presiding judge to sign an order authorizing an interception. One of these judges may hear an application and sign an order only if that judge makes a determination that the presiding judge, the first designated judge, and those judges higher on the list are unavailable. Each application shall include all of the following information:

(1) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application.

(2) The identity of the law enforcement agency that is to execute the order.

(3) A statement attesting to a review of the application and the circumstances in support thereof by the chief executive officer, or his or her designee, of the law enforcement agency making the application. This statement shall name the chief executive officer or the designee who effected this review.

(4) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his or her belief that an order should be issued, including (A) details as to the particular offense that has been, is being, or is about to be committed, (B) the fact that conventional investigative techniques had been tried and were unsuccessful, or why they reasonably appear to be unlikely to succeed or to be too dangerous, (C) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (D) a particular description of the type of communication sought to be intercepted, and (E) the identity, if known, of the person committing the offense and whose communications are to be intercepted, or if that person's identity is not known, then the information relating to the person's identity that is known to the applicant.

(5) A statement of the period of time for which the interception is required to be maintained, and if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a

particular description of the facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

(6) A full and complete statement of the facts concerning all previous applications known, to the individual authorizing and to the individual making the application, to have been made to any judge of a state or federal court for authorization to intercept wire, electronic pager, or electronic cellular telephone communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each of those applications. This requirement may be satisfied by making inquiry of the California Attorney General and the United States Department of Justice and reporting the results of these inquiries in the application.

(7) If the application is for the extension of an order, a statement setting forth the number of communications intercepted pursuant to the original order, and the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain results.

(8) An application for modification of an order may be made when there is probable cause to believe that the person or persons identified in the original order have commenced to use a facility or device that is not subject to the original order. Any modification under this subdivision shall only be valid for the period authorized under the order being modified. The application for modification shall meet all of the requirements in paragraphs (1) to (6), inclusive, and shall include a statement of the results thus far obtained from the interception, or a reasonable explanation for the failure to obtain results.

(b) The judge may require the applicant to furnish additional testimony or documentary evidence in support of an application for an order under this section.

(c) The judge shall accept a facsimile copy of the signature of any person required to give a personal oath or affirmation pursuant to subdivision (a) as an original signature to the application. The original signed document shall be sealed and kept with the application pursuant to the provisions of Section 629.66 and custody of the original signed document shall be in the same manner as the judge orders for the application.

CHAPTER 147

An act to repeal Section 44265.7 of, and to repeal and add Sections 44265.8 and 44265.9 of, the Education Code, relating to teacher credentialing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 2006. Filed with
Secretary of State August 23, 2006.]

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

SECTION 1. Section 44265.7 of the Education Code is repealed.

SEC. 2. Section 44265.8 of the Education Code is repealed.

SEC. 3. Section 44265.8 is added to the Education Code, to read:

44265.8. (a) Upon the recommendation of a preliminary credential preparation program sponsor approved by the Commission on Teacher Credentialing, the commission shall issue a two-year nonrenewable preliminary teaching credential or preliminary services credential to a candidate who is prelingually deaf and meets all of the requirements in law for the full, pertinent five-year teaching or services credential pursuant to paragraph (2) of subdivision (a) of Section 44251, except that the candidate is exempt from compliance with the state basic skills proficiency testing requirements in Section 44252 and subdivision (b) of Section 44830.

(b) A credential issued under this section authorizes the holder to teach or provide services, as authorized by the credential, only to deaf and hearing-impaired pupils who are enrolled in state special schools or in special classes for pupils with hearing impairments.

(c) For purposes of this section "prelingually deaf" means a person who suffered hearing loss prior to three years of age, which prevents the processing of linguistic information through hearing, with or without amplification, if the condition is verified through medical or other appropriate professional means.

SEC. 4. Section 44265.9 of the Education Code is repealed.

SEC. 5. Section 44265.9 is added to the Education Code, to read:

44265.9. (a) The Commission on Teacher Credentialing shall develop criteria to verify the proficiency of any holder of a credential issued under Section 44265.8 in performing the essential functions of his or her position.

(b) The school district, county office of education, or state special school that employs a holder of a credential issued under Section 42265.8 shall appoint a three-person panel to verify proficiency using the criteria the commission develops for this purpose. The panel shall report its findings to the employing school district, county office of education, or state special school, which may adopt those findings.

(c) The panel appointed pursuant to subdivision (b) shall consist of the following:

(1) A school administrator who is selected by school administrators of the employing school district, county office of education, or state special school.

(2) An individual who is the parent of a deaf or hearing-impaired pupil and who is selected by a school-related parent group.

(3) A teacher or school services provider who holds a credential to teach or service deaf or hearing-impaired pupils and who is selected by teachers at the employing school.

(d) The employing school district, county office of education, or state special school shall ensure that the panel completes the verification of proficiency within two years after the issuance of the credential issued under Section 44265.8.

(e) Upon verification of proficiency, as documented by the employing school district, county office of education, or state special school, the commission shall issue a credential for the remainder of the preliminary period pursuant to paragraph (2) of subdivision (a) of Section 44251 that is limited to providing the instruction authorized by the credential to deaf and hearing-impaired pupils enrolled in state special schools or in special classes, or a services credential for the remainder of the preliminary period that is limited to the provision of services authorized by the credential for deaf and hearing-impaired pupils enrolled in state special schools or in special classes.

(f) Upon meeting the requirements for a professional clear teaching or services credential, the applicant may apply through their commission-approved professional clear program sponsor for a professional clear credential that is limited to providing the instruction or service authorized by the credential to deaf and hearing-impaired pupils enrolled in state special schools or in special classes.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide deaf and hearing-impaired pupils enrolled in state special schools or in special classes for pupils with hearing impairments with the unique talent and understanding that prelingually deaf

professionals bring to those pupils, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 148

An act to amend Sections 2540, 2541, 2541.3, 2541.6, and 2543 of the Business and Professions Code, relating to prescription lenses.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

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

(1) Current California law is intended to prohibit the sale and use of "plano contact lenses," which are zero-powered or noncorrective contact lenses intended to change the appearance of the normal eye in decorative fashion, without the required eye examination, fitting, and confirmation of a valid prescription from a licensed eye care professional.

(2) The Congress of the United States by enactment of Public Law 109-96 amended the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360j and following) to classify cosmetic plano contact lenses as medical devices requiring registration with, and approval by, the Food and Drug Administration before they may be lawfully marketed and sold in the United States.

(3) In enacting Public Law 109-96 the United States Congress made it clear that the new law is not intended to preempt or forestall individual states from enacting and enforcing laws to restrict the marketing and sale of plano contact lenses, by requiring an examination, fitting, and confirmation of a valid prescription.

(4) Notwithstanding California and federal laws to the contrary, unqualified entities persist in marketing plano contact lenses, using the Internet and unlicensed retailers to represent that these lenses may be lawfully obtained and worn without examination, fitting, and the issuance of a prescription by a licensed eye care professional.

(5) Studies show that in California these marketing efforts and representations are directed at minors, especially those with limited proficiency in English, thereby jeopardizing their eye health and vision.

(b) It is the intent of the Legislature, in enacting this act, to accomplish all of the following:

(1) Clarify the definition of plano contact lenses as prescription ophthalmic devices under California law.

(2) Incorporate the federal definition of all contact lenses as regulated medical devices.

(3) Define as a deceptive marketing practice any representation by a marketer or seller that a plano contact lens may be lawfully obtained without an eye examination or confirmation of a valid prescription, as required by California law.

(4) Encourage contact lens prescribers, fitters, dispensers, and state enforcement authorities to join in educating California contact lens consumers, especially minors, of the dangers to eye health and vision posed by purchasing and using plano contact lenses unlawfully.

SEC. 2. Section 2540 of the Business and Professions Code is amended to read:

2540. No person other than a physician and surgeon or optometrist may measure the powers or range of human vision or determine the accommodative and refractive status of the human eye or the scope of its functions in general or prescribe ophthalmic devices.

SEC. 3. Section 2541 of the Business and Professions Code is amended to read:

2541. A prescription ophthalmic device includes each of the following:

(a) Any spectacle or contact lens ordered by a physician and surgeon or optometrist, that alters or changes the visual powers of the human eye.

(b) Any contact lens described in paragraph (1) of subdivision (n) of Section 520 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360j and following).

(c) Any plano contact lens that is marketed or offered for sale in this state. "Plano contact lens" means a zero-power or noncorrective contact lens intended to change the appearance of the normal eye in a decorative fashion.

SEC. 4. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. (a) The State Department of Health Services, the State Board of Optometry and the Division of Licensing and Division of Medical Quality of the Medical Board of California shall prepare and adopt quality standards and adopt regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. In promulgating these rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting

subsequent standards that are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

(b) No individual or group that deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists, or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device that does not meet the minimum standards set by the State Department of Health Services, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California.

(c) Any violation of the regulations adopted by the State Department of Health Services, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be a misdemeanor.

(d) Any optometrist, ophthalmologist, or dispensing optician who violates the regulations adopted by the State Department of Health Services, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be subject to disciplinary action by his or her licensing board.

(e) The State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California may send any prescription ophthalmic device to the State Department of Health Services for testing as to whether or not the device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct the testing in its own facilities or may contract with any other facility to conduct the testing.

SEC. 5. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. No prescription ophthalmic device that does not meet the standards adopted by the State Department of Health Services, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California under Section 2541.3 shall be purchased with state funds.

SEC. 6. Section 2543 of the Business and Professions Code is amended to read:

2543. (a) Except as provided in the Nonresident Contact Lens Seller Registration Act (Chapter 5.45 (commencing with Section 2546), the right to dispense, sell or furnish prescription ophthalmic devices at retail or to the person named in a prescription is limited exclusively to licensed physicians and surgeons, licensed optometrists, and registered dispensing

opticians as provided in this division. This section shall not be construed to affect licensing requirements pursuant to Section 111615 of the Health and Safety Code.

(b) It shall be considered a deceptive marketing practice for:

(1) Any licensed physician and surgeon, licensed optometrist, or registered dispensing optician to publish or cause to be published any advertisement or sales presentation relating to contact lenses that represents that contact lenses may be obtained without confirmation of a valid prescription.

(2) Any individual or entity who offers for sale plano contact lenses, as defined in subdivision (c) of Section 2541, to represent by any means that those lenses may be lawfully obtained without an eye examination or confirmation of a valid prescription, or may be dispensed or furnished to a purchaser without complying with the requirements of Section 2562, except as provided in Chapter 5.45 (commencing with Section 2546).

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 149

An act to amend Section 7316 of the Business and Professions Code, relating to barbering and cosmetology, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, or neck.

(5) Hairstyling of all textures of hair by standard methods which are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care, and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, or manicuring the nails of any person or massaging, cleansing, or beautifying the hands or feet of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair. This paragraph shall become inoperative on July 1, 2008.

(e) The board shall report any complaints received on the practice of threading to the department and the Joint Committee on Boards, Commissions, and Consumer Protection no later than September 1, 2005.

(f) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(g) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

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

In order to make and implement needed changes to the Barbering and Cosmetology Act as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 150

An act to amend Section 116.220 of the Code of Civil Procedure, relating to small claims court.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court has jurisdiction in the following actions:

(1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount of the demand does not exceed five thousand dollars ($5,000).

(2) Except as provided in subdivisions (c), (e), and (f), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars ($5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars ($5,000).

(4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars ($5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars ($5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court has jurisdiction over a defendant guarantor as follows:

(1) For any action brought by a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor, the small claims jurisdictional limit stated in Section 116.221 shall apply.

(2) For any action against a defendant guarantor that does not charge a fee for its guarantor or surety services, if the amount of the demand does not exceed two thousand five hundred dollars ($2,500).

(3) For any action against a defendant guarantor that charges a fee for its guarantor or surety services or an action brought by an entity other than a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor, if the amount of the demand does not exceed four thousand dollars ($4,000).

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver is not operative until judgment.

(e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections and Rehabilitation facility, the small claims court has jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.

(f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of compliance with the requirements of subdivision (e) at the time of trial, the judicial officer shall, at his or her discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide that proof.

(g) For purposes of this section, "department" includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

CHAPTER 151

An act to add Chapter 3.5 (commencing with Section 1002) to Title 14 of Part 2 of the Code of Civil Procedure, relating to confidential settlement agreements.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Chapter 3.5 (commencing with Section 1002) is added to Title 14 of Part 2 of the Code of Civil Procedure, to read:

Chapter 3.5. Confidential Settlement Agreements

1002. (a) Notwithstanding any other provision of law, a confidential settlement agreement is prohibited in any civil action the factual foundation for which establishes a cause of action for civil damages for an act that may be prosecuted as a felony sex offense.

(b) Subdivision (a) does not preclude an agreement preventing the defendant or any person acting on his or her behalf from disclosing any medical information or personal identifying information, as defined in subdivision (b) of Section 530.5 of the Penal Code, regarding the victim of the felony sex offense or of any information revealing the nature of the relationship between the victim and the defendant. This subdivision shall not be construed to limit the right of a crime victim to disclose this information.

(c) Subdivision (a) does not apply to or affect the ability of the parties to enter into a settlement agreement or stipulated agreement that requires the nondisclosure of the amount of any money paid in a settlement of a claim.

CHAPTER 152

An act to amend Section 8022 of the Elections Code, relating to nominations.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Section 8022 of the Elections Code is amended to read:

8022. Notwithstanding Section 8020 or any other provision of the law, if nomination documents for an incumbent state Senator, Member of the Assembly, state constitutional officer, Insurance Commissioner, Member of the United States House of Representatives, or United States Senator are not delivered by 5 p.m. on the 88th day before the direct primary election, any person other than the person who was the incumbent on the 88th day shall have until 5 p.m. on the 83rd day before the election to file nomination documents for the elective office.

However, if the incumbent's failure to file nomination documents is because he or she has already served the maximum number of terms permitted by the California Constitution for that office, there shall be no extension of the period for filing the nomination documents.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 153

An act to amend Section 2530.2 of the Business and Professions Code, relating to speech-language pathology.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the Speech-Language Pathology and Audiology Board or any successor.

(b) "Person" means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading.

(*l*) "Audiology aide" means any person, meeting the minimum requirements established by the board, who works directly under the supervision of an audiologist.

(m) "Medical board" means the Medical Board of California or a division of the board.

(n) A "hearing screening" performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) "Cerumen removal" means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

CHAPTER 154

An act relating to state claims, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. (a) The sum of two hundred seventy-four thousand four hundred fifty-three dollars and fifty-five cents ($274,453.55) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of claims accepted by the board in accordance with the schedule set forth in subdivision (b).

(b) Pursuant to subdivision (a), claims accepted by the California Victim Compensation and Government Claims Board shall be paid in accordance with the following schedule:

Total for Fund: General Fund (0001).....	$208,927.66
Total for Fund: Item 0690-001-0001	
Budget Act of 2006, Program 35.....	$101.82
Total for Fund: Item 0750-001-0001	
Budget Act of 2006.....	$2,926.00
Total for Fund: Item 0820-001-0001	
Budget Act of 2006, Program 40.....	$179.29
Total for Fund: Item 0840-001-0001	
Budget Act of 2006, Program 60.....	$495.77
Total for Fund: Item 1900-501-0822	
Budget Act of 2006.....	$5,783.73
Total for Fund: Item 2660-001-0042	
Budget Act of 2006, Program 20.10.....	$810.40
Total for Fund: Item 2740-001-0044	
Budget Act of 2006, Program 11.....	$29,588.91
Total for Fund: Item 2740-001-0044	
Budget Act of 2006, Program 25.....	$187.00
Total for Fund: Item 5180-001-0001	
Budget Act of 2006, Program 25.....	$1,477.10
Total for Fund: Item 5225-001-0001	
Budget Act of 2006, Program 25.....	$5,000.87
Total for Fund: Item 6610-001-0001(1)	
Budget Act of 2006.....	$3,645.45

Total for Fund: Item 7100-001-0185	
Budget Act of 2006, Program 21	$7,081.59
Total for Fund: Item 7100-101-0588	
Budget Act of 2006, Program 21	$129.00
Total for Fund: Item 7100-101-0871	
Budget Act of 2006, Program 21	$2,478.00
Total for Fund: Item 8940-001-0001	
Budget Act of 2003, Program 20	$5,292.80
Total for Fund: Item 9100-101-0001	
Budget Act of 2006, Program 20	$348.16

SEC. 2. Upon the request of the California Victim Compensation and Government Claims Board, in a form prescribed by the Controller, the Controller shall transfer surcharges and fees from the Budget Act items of appropriation identified in subdivision (b) of Section 1 to Item 1870-001-0001 of Section 2.00 of the Budget Act of 2006. For each Budget Act item of appropriation, this amount shall not exceed the cumulative total of the per claim filing fees authorized by subdivision (b) of Section 905.2 of the Government Code and the surcharge authorized by subdivision (f) of Section 905.2 of the Government Code. For those items in subdivision (b) that do not reflect a Budget Act appropriation, the Controller shall transfer an amount not to exceed the cumulative total of the per claim filing fees authorized by subdivision (b) of Section 905.2 of the Government Code and the surcharge authorized by subdivision (f) of Section 905.2 of the Government Code. This amount shall be transferred for support of the board as reimbursements to Item 1870-001-0001 of Section 2.00 of the Budget Act of 2006. The board shall provide a report of the amounts recovered pursuant to this authority to the Department of Finance within 90 days of the enactment of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 155

An act to amend Section 89513 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 23, 2006. Filed with
Secretary of State August 23, 2006.]

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

SECTION 1. Section 89513 of the Government Code is amended to read:

89513. The following provisions govern the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that these provisions shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth below.

(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(2) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(3) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(4) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit which is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

(b) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(1) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" include, but are not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses or medications, treatments or medical equipment, expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity which was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, where this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(1) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(2) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(2) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars ($250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 156

An act to amend Section 3009 of the Elections Code, relating to voting.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Section 3009 of the Elections Code is amended to read:

3009. (a) Upon receipt of any absentee ballot application signed by the voter that arrives within the proper time, the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The elections official may make this signature check upon receiving the voted ballot, but the signature must be compared before the absent voter ballot is canvassed.

(b) If the elections official deems the applicant entitled to an absent voter's ballot he or she shall deliver by mail or in person the appropriate ballot. The ballot may be delivered to the applicant, his or her spouse,

child, parent, grandparent, grandchild, or sibling, or a person residing in the same household as the absent voter, except that in no case shall the ballot be delivered to an individual under 16 years of age. The elections official shall deliver the absentee ballot to the applicant's spouse, child, parent, grandparent, grandchild, or sibling, or a person residing in the same household as the absent voter only if that person signs a statement attested to under penalty of perjury that provides the name of the applicant and his or her relationship to the applicant, and affirms that he or she is 16 years of age or older, and is authorized by the applicant to deliver the absentee ballot.

(c) If the elections official determines that an application does not contain all of the information prescribed in Section 3001 or 3006, or for any other reason is defective, and the elections official is able to ascertain the voter's address, the elections official shall, within one working day of receiving the application, mail the voter an absent voter's ballot together with a notice. The notice shall inform the voter that the voter's absent voter's ballot shall not be counted unless the applicant provides the elections official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed absent voter's ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

If the voter substantially complies with the requirements contained in the elections official's notice, the voter's ballot shall be counted.

In determining from the records of registration if the signature and residence address on the application appear to be the same as that on the original affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

CHAPTER 157

An act to amend Section 54962 of, and to add Section 37606.1 to, the Government Code, relating to municipal hospitals.

[Approved by Governor August 23, 2006. Filed with Secretary of State August 23, 2006.]

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

SECTION 1. Section 37606.1 is added to the Government Code, to read:

37606.1. (a) When a municipal hospital established pursuant to this article is managed by a board of trustees that is appointed by the mayor, the city council may meet in a closed session held solely for the purpose of discussion, deliberation, or both, of reports involving trade secrets of the municipal hospital. Except as provided in this section, the closed session shall comply with all applicable requirements of Chapter 9 (commencing with Section 54950) of Division 2 of Title 5.

(b) "Hospital trade secrets," as used in this section, means a "trade secret," as defined in subdivision (d) of Section 3426.1 of the Civil Code, and which meets all of the following:

(1) Is necessary to initiate a new hospital service or program or add a hospital facility.

(2) Would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

(c) The exception provided in subdivision (a) to the general open meeting requirements for a meeting of the city council shall not apply to a meeting where there is action taken, as defined in Section 54952.6.

(d) Nothing in this section shall be construed to permit the city council to order a closed meeting for the purposes of discussing or deliberating, or to permit the discussion or deliberation in any closed meeting of, any proposals regarding any of the following:

(1) The sale, conversion, contract for management, or leasing of any municipal hospital or the assets thereof, to any for-profit or nonprofit entity, agency, association, organization, governmental agency, person, partnership, corporation, or hospital district.

(2) The conversion of any municipal hospital to any other form of ownership by the city.

(3) The dissolution of the municipal hospital.

SEC. 2. Section 54962 of the Government Code is amended to read:

54962. Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code, or by Sections 37606, 37606.1, and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 37606.1 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of

Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to ensure that a city council can discuss or deliberate about a municipal hospital without disclosing the hospital's trade secrets, it is necessary that the council be authorized to meet in closed session for this purpose.

CHAPTER 158

An act to amend Section 66301 of the Education Code, relating to postsecondary education.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 66301 of the Education Code is amended to read:

66301. (a) Neither the Regents of the University of California, the Trustees of the California State University, the governing board of any community college district, nor any administrator of any campus of those institutions, shall make or enforce any rule subjecting any student to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article 1 of the California Constitution.

(b) Any student enrolled in an institution, as specified in subdivision (a), that has made or enforced any rule in violation of subdivision (a) may commence a civil action to obtain appropriate injunctive and declaratory relief as determined by the court. Upon a motion, a court may award attorney's fees to a prevailing plaintiff in a civil action pursuant to this section.

(c) Nothing in this section shall be construed to authorize any prior restraint of student speech or the student press.

(d) Nothing in this section prohibits the imposition of discipline for harassment, threats, or intimidation, unless constitutionally protected.

(e) Nothing in this section prohibits an institution from adopting rules and regulations that are designed to prevent hate violence, as defined in

subdivision (a) of Section 4 of Chapter 1363 of the Statutes of 1992, from being directed at students in a manner that denies them their full participation in the educational process, if the rules and regulations conform to standards established by the First Amendment to the United States Constitution and Section 2 of Article 1 of the California Constitution for citizens generally.

CHAPTER 159

An act to add Section 515.8 to the Labor Code, relating to employment.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 515.8 is added to the Labor Code, to read:

515.8. (a) Section 510 does not apply to an individual employed as a teacher at a private elementary or secondary academic institution in which pupils are enrolled in kindergarten or any of grades 1 to 12, inclusive.

(b) For purposes of this section, "employed as a teacher" means that the employee meets all of the following requirements:

(1) The employee is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing.

(2) The employee customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher.

(3) The employee earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.

(4) The employee has attained at least one of the following levels of professional advancement:

(A) A baccalaureate or higher degree from an accredited institution of higher education.

(B) Current compliance with the requirements established by the California Commission on Teacher Credentialing, or the equivalent certification authority in another state, for obtaining a preliminary or alternative teaching credential.

(c) This section does not apply to any tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or other similar employee.

(d) The exemption established in subdivision (a) is in addition to, and does not limit or supersede, any exemption from overtime established

by a Wage Order of the Industrial Welfare Commission for persons employed in a professional capacity, and does not affect any exemption from overtime established by that commission pursuant to subdivision (a) of Section 515 for persons employed in an executive or administrative capacity.

CHAPTER 160

An act to add Section 13012.6 to the Penal Code, relating to crime statistics.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 13012.6 is added to the Penal Code, to read:

13012.6. The annual report published by the department under Section 13010 shall include information concerning arrests for violations of Section 530.5.

CHAPTER 161

An act to amend Section 33378 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 33378 of the Health and Safety Code is amended to read:

33378. (a) With respect to any ordinance that is subject to referendum pursuant to Sections 33365 and 33450, the language of the statement of the ballot measure shall set forth with clarity and in language understandable to the average person that a "Yes" vote is a vote in favor of adoption or amendment of the redevelopment plan and a "No" vote is a vote against the adoption or amendment of the redevelopment plan.

(b) (1) Notwithstanding any other provision of law, including the charter of any city or city and county, referendum petitions circulated

in cities or counties over 500,000 population shall bear valid signatures numbering not less than 10 percent of the total votes cast within the city or county for Governor at the last gubernatorial election.

(2) Notwithstanding any other provision of law, including the charter of any city or city and county, or Section 9242 of the Elections Code, the referendum petitions of all cities and counties shall be submitted to the clerk of the legislative body within 90 days of the adoption of an ordinance subject to referendum under this article.

(c) With respect to any ordinance that is subject to referendum pursuant to Sections 33365 and 33450 and either provides for tax-increment financing pursuant to Section 33670 or expands a project area that is subject to tax-increment financing, the referendum measure shall include, in the ballot pamphlet, an analysis by the county auditor-controller and, at the option of the legislative body, a separate analysis by the agency, of the redevelopment plan or amendment that will include both of the following:

(1) An estimate of the potential impact on property taxes per each ten thousand dollars ($10,000) of assessed valuation for taxpayers located in the city or county, as the case may be, outside the redevelopment project area during the life of the redevelopment project.

(2) An estimate of what would happen to the project area in the absence of the redevelopment project or in the absence of the proposed amendment to the plan.

CHAPTER 162

An act to amend Section 14105.27 of, and to add Section 14105.965 to, the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 14105.27 of the Welfare and Institutions Code is amended to read:

14105.27. (a) Each eligible facility, as described in subdivision (b) may, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, receive supplemental Medi-Cal reimbursement to the extent provided in this section.

(b) A facility shall be eligible for supplemental reimbursement only if the facility has all of the following characteristics continuously during the department's rate year:

(1) Provides services to Medi-Cal beneficiaries.

(2) Is either of the following:

(A) For the department's rate year beginning August 1, 2001, and for subsequent rate years, a distinct part of an acute care hospital providing skilled nursing services. For purposes of this section, "acute care hospital" means a facility described by subdivision (a) or (b), or both, of Section 1250 of the Health and Safety Code.

(B) For the department's rate year beginning August 1, 2006, and for subsequent rate years, a state home, as defined in Section 101 (19) of Title 38 of the United States Code.

(3) Is owned or operated by the state, or by a county, city, city and county, or health care district organized pursuant to Chapter 1 (commencing with Section 32000) of Division 23 of the Health and Safety Code.

(c) An eligible facility's supplemental reimbursement pursuant to this section shall be calculated and paid as follows:

(1) The supplemental reimbursement to an eligible facility, as described in paragraph (4), shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (g).

(2) In no instance shall the amount certified pursuant to paragraph (1) of subdivision (e), when combined with the amount received from all other sources of reimbursement from the Medi-Cal program, exceed 100 percent of projected costs, as determined pursuant to the Medi-Cal State Plan, for distinct part skilled nursing services at each facility.

(3) Costs associated with the provision of subacute services pursuant to Section 14132.25 shall not be certified for supplemental reimbursement pursuant to this section.

(4) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on skilled nursing services provided to Medi-Cal patients at the eligible facility, either on a per diem basis, a per discharge basis, or any other federally permissible basis. The department shall seek approval from the federal Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that approval.

(d) (1) It is the Legislature's intent in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the General Fund. An eligible facility, as a condition of receiving supplemental reimbursement pursuant to this section, shall

enter into, and maintain, an agreement with the department for the purposes of implementing this section and reimbursing the department for the costs of administering this section.

(2) The state share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in paragraph (3) of subdivision (b) and certified to the state as provided in subdivision (e).

(e) The particular governmental entity, described in paragraph (3) of subdivision (b), on behalf of any eligible facility shall do all of the following:

(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the claimed expenditures for distinct part nursing facility services are eligible for federal financial participation.

(2) Provide evidence supporting the certification as specified by the department.

(3) Submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(4) Keep, maintain, and have readily retrievable, any records specified by the department to fully disclose reimbursement amounts to which the eligible facility is entitled, and any other records required by the federal Centers for Medicare and Medicaid Services.

(f) The department may require that any governmental entity, described in paragraph (3) of subdivision (b), seeking supplemental reimbursement under this section enter into an interagency agreement with the department for the purpose of implementing this section.

(g) (1) The department shall promptly seek any necessary federal approvals, including a federal medicaid waiver, for the implementation of this section. If necessary to obtain federal approval, the department may limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not obtained for implementation of this section, this section shall become inoperative.

(2) The department shall submit claims for federal financial participation for the expenditures for the services described in subdivision (e) that are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(h) In the event there is a final judicial determination by any court of appellate jurisdiction or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services that the supplemental reimbursement provided in this section must be made to any facility not described in this section, this section shall become immediately inoperative.

(i) All funds expended pursuant to this section are subject to review and audit by the department.

SEC. 2. Section 14105.965 is added to the Welfare and Institutions Code, to read:

14105.965. (a) Each eligible facility, as described in subdivision (b), may, in addition to the rate of payment that the facility would otherwise receive for Medi-Cal outpatient services, receive supplemental Medi-Cal reimbursement to the extent provided in this section.

(b) A facility shall be eligible for supplemental reimbursement only if the facility has all of the following characteristics continuously during a state fiscal year:

(1) Provides services to Medi-Cal beneficiaries.

(2) Commencing with the 2006–07 fiscal year, is a clinic that is enrolled as a Medi-Cal provider.

(3) Is owned or operated by the state, a city, county, or city and county, the University of California, or a health care district organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code.

(c) An eligible facility's supplemental reimbursement pursuant to this section shall be calculated and paid as follows:

(1) The supplemental reimbursement to an eligible facility, as described in subdivision (b), shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (g).

(2) In no instance shall the amount certified pursuant to paragraph (1) of subdivision (e), when combined with the amount received from all other sources of reimbursement from the Medi-Cal program, exceed 100 percent of projected costs, as determined pursuant to the Medi-Cal state plan, for outpatient services at each facility.

(3) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on outpatient services provided to Medi-Cal patients at the eligible facility, either on a per-visit basis, per-procedure basis, or any other federally permissible basis. The department shall seek approval from the federal Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and may not make any payment pursuant to this section prior to obtaining that approval.

(d) (1) It is the Legislature's intent in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the General Fund. An eligible facility, as a condition of receiving supplemental reimbursement pursuant to this section, shall enter into, and maintain, an agreement with the department for the purposes of implementing this section and reimbursing the department for the costs of administering this section.

(2) The state share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in paragraph (3) of subdivision (b) and certified to the state as provided in subdivision (e).

(e) A particular governmental entity, described in paragraph (3) of subdivision (b), on behalf of any eligible facility owned or operated by the entity, shall do all of the following:

(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the claimed expenditures for the outpatient services are eligible for federal financial participation.

(2) Provide evidence supporting the certification as specified by the department.

(3) Submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(4) Keep, maintain, and have readily retrievable, any records specified by the department to fully disclose reimbursement amounts to which the eligible facility is entitled, and any other records required by the federal Centers for Medicare and Medicaid Services.

(f) The department may require that any governmental entity described in paragraph (3) of subdivision (b) seeking supplemental reimbursement for an eligible facility under this section enter into an interagency agreement with the department for the purpose of implementing this section.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section. If necessary to obtain federal approval, the department may limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not obtained for implementation of this section, this section shall not be implemented.

(2) The department shall submit claims for federal financial participation for the expenditures for the services described in subdivision (e) that are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(h) This section shall become inoperative in the event, and on the date, of a final judicial determination by any court of appellate jurisdiction or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services that the supplemental reimbursement provided in this section must be made to any facility not described in this section.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the financial solvency of certain public health facilities by enabling them to use the funds made available pursuant to this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 163

An act relating to state claims, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. The sum of four hundred fifty thousand dollars ($450,000) is hereby appropriated from the General Fund to the California Department of Justice to pay for the settlement in the case of Michael Gatti v. Department of Parks and Recreation (Santa Barbara County Superior Court, Case No. 01158947). Any funds appropriated in excess of the amounts actually required for the payment of this settlement claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 2. The sum of nine hundred forty-two thousand dollars ($942,000) is hereby appropriated from the General Fund to the California Department of Justice to pay for the prefiling settlement in the case of Schoenstein et al. v. Department of Parks and Recreation (Attorney General case file No. SA2005103108). Any funds appropriated

in excess of the amounts actually required for the payment of this settlement claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 3. The sum of two hundred thirty-eight thousand five hundred dollars ($238,500) is hereby appropriated from the General Fund to the Department of Justice to pay for the settlement in the case of Foundation for Taxpayer and Consumer Rights v. Garamendi (Los Angeles County Superior Court, Case No. BS086235). Any funds appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 4. The sum of five hundred forty-three thousand dollars ($543,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation to pay for the settlement in the case of State Department of Parks and Recreation v. Lake Oroville Area Public Utilities District et al. (Butte County Superior Court, Case No. 124772). Any funds appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 5. The sum of six hundred one thousand dollars ($601,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development to pay for the settlement in the case of Vega et al. v. Richard Mallory, the California Department of Housing and Community Development et al. (Sacramento County Superior Court, Case No. 97AS06548). Any funds appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 6. The sum of sixty-four thousand two hundred dollars ($64,200) is hereby appropriated from the General Fund to the California Department of Justice to pay for the settlement in the case of California Republican Party et al. v. Fair Political Practices Commission. (United States District Court for the Eastern District of California, Case No. Civ. S-04-2144 FCD PAN.). Any funds appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 7. The sum of five hundred twenty-five thousand five hundred dollars ($525,500) is hereby appropriated from the General Fund to the California Department of Justice to pay for the judgment in the case of D & L Concrete Pumping, Inc v. Vahdani Group et al. (City and County of San Francisco Superior Court, Case No. 308131). Any funds

appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 8. The sum of one hundred eighty-seven thousand five hundred dollars ($187,500) is hereby appropriated from the General Fund to the Department of Justice to pay for the settlement in the case of Waverly Clemons et al. v. County of Sacramento et al. (Sacramento County Superior Court, Case No. 346512). Any funds appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 9. The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the Department of Forestry and Fire Protection to pay for the settlement in the case of Leo Zupancic v. Department of Forestry, State of California (State of California Workers' Compensation Appeals Board, Case No. SJO 0217754). Any funds appropriated in excess of the amounts actually required for the payment of this judgment claim shall revert to the General Fund on June 30 of the fiscal year in which the final payment is made.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay judgments and settlement claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 164

An act to amend Section 53635 of, and to amend and repeal Section 53601.7 of, the Government Code, relating to local agencies.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 53601.7 of the Government Code is amended to read:

53601.7. Notwithstanding the investment parameters of Sections 53601 and 53635, a local agency that is a county or a city and county

may invest any portion of the funds that it deems wise or expedient, using the following criteria:

(a) No investment shall be made in any security, other than a security underlying a repurchase agreement, reverse repurchase agreement, or a securities lending agreement, that, at the time of purchase, has a term remaining to maturity in excess of 397 days, and that would cause the dollar-weighted average maturity of the funds in the investment pool to exceed 90 days.

(b) All corporate and depository institution investments shall meet or exceed the following credit rating criteria at time of purchase:

(1) Short-term debt shall be rated at least "A-1" by Standard & Poor's Corporation, "P-1" by Moody's Investors Service, Inc., or "F-1" by Fitch Ratings. If the issuer of short-term debt has also issued long-term debt, this long-term debt rating shall be rated at least "A," without regard to +/– or 1, 2, 3 modifiers, by Standard & Poor's Corporation, Moody's Investors Service, Inc., or Fitch Ratings.

(2) Long-term debt shall be rated at least "A," without regard to +/– or 1, 2, 3 modifiers, by Standard & Poor's Corporation, Moody's Investors Service, Inc., or Fitch Ratings.

(c) (1) No more than 5 percent of the total assets of the investments held by a local agency may be invested in the securities of any one issuer, except the obligations of the United States government, United States government agencies, and United States government-sponsored enterprises.

(2) Up to 25 percent of the total assets of the investments held by a local agency may be invested in the first tier securities of a single issuer for a period of up to three business days after acquisition. The securities of no more than one issuer may be invested pursuant to this paragraph at a time.

(3) No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one mutual fund.

(d) Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. A later increase or decrease in a percentage resulting from a change in values or assets shall not constitute a violation of that restriction. If subsequent to purchase, securities are downgraded below the minimum acceptable rating level, the securities shall be reviewed for possible sale within a reasonable amount of time after the downgrade.

(e) Within the limitations set forth in this section, a local agency electing to invest its funds pursuant to this section may invest in the following securities:

(1) Direct obligations of the United States Treasury or any other obligation guaranteed as to principal and interest by the United States government.

(2) Bonds, notes, debentures, or any other obligations of, or securities issued by, any federal government agency, instrumentality, or government-sponsored enterprise.

(3) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or other entity of the state.

(4) Bonds, notes, warrants, or other indebtedness of the local agency, or any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(5) Bankers acceptance, otherwise known as bills of exchange or time drafts drawn on and accepted by a commercial bank, primarily used to finance international trade. Purchases of bankers acceptances may not exceed 180 days to maturity.

(6) Short-term unsecured promissory notes issued by corporations for maturities of 270 days or less. Eligible commercial paper is further limited to the following:

(A) Issuing corporations that are organized and operating within the United States, having total assets in excess of five hundred million dollars ($500,000,000).

(B) Maturities for eligible commercial paper that may not exceed 270 days.

(7) A certificate representing a deposit of funds at a commercial bank for a specified period of time and for a specified return at maturity. Eligible certificates of deposit shall be issued by a nationally or state-chartered bank or a state or federal association, as defined in Section 5102 of the Financial Code, or by a state-licensed branch of a foreign bank. For purposes of this subdivision, certificates of deposits shall not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money may not invest local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decisionmaking authority in the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors,

or any committee appointed by the board of directors, other credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificate of deposit.

(8) Repurchase agreements, reverse repurchase agreements, or securities lending agreements of any securities authorized by this section, if the agreements meet the requirements of this paragraph and the delivery requirements specified in Section 53601. Investments in repurchase agreements may be made, on any investment authorized by this section, when the term of the agreement does not exceed one year. The market value of the securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities, and the value shall be adjusted no less than quarterly. Because the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance with this section if the value of the underlying securities is brought back to 102 percent no later than the next business day. Reverse repurchase agreements may be utilized only when all of the following criteria are met:

(A) The security being sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to the sale.

(B) The total of all reverse repurchase agreements on investments owned by the local agency not purchased or committed to purchase does not exceed 20 percent of the market value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, may not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(E) Investments in reverse repurchase agreements or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, shall only be made with prior approval of the governing body of the local agency and

shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

"Securities," for purposes of this paragraph, means securities of the same issuer, description, issue date, and maturity.

(9) All debt securities issued by a corporation or depository institution with a remaining maturity of not more than 397 days, including securities specified as "medium-term notes," as well as other debt instruments originally issued with maturities longer than 397 days, but which, at time of purchase, have a final maturity of 397 days or less. Eligible medium-term notes shall be issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.

(10) (A) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations described in this subdivision and that comply with the investment restrictions of this section. However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement shall not be required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default. The value of the securities underlying a repurchase agreement may be 100 percent of the sales price if the securities are marked to market daily.

(B) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(C) All shares of beneficial interest described in this paragraph shall have met either of the following criteria:

(i) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(ii) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission and who has not less than five years' experience investing in money market instruments and with assets under management in excess of five hundred million dollars ($500,000,000).

(11) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other paythrough bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond.

Securities eligible for investment under this paragraph shall be issued by an issuer having an "A" or higher rating from the issuer's debt as

provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating.

(12) Contracts issued by insurance companies that provide the policyholder with the right to receive a fixed or variable rate of interest and the full return of principal at the maturity date.

(13) Any investments that would qualify under SEC Rule 2a-7 of the Investment Company Act of 1940 guidelines. These investments shall also meet the limitations detailed in this section.

(f) For purposes of this section, all of the following definitions shall apply:

(1) "Repurchase agreement" means a purchase of securities pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement.

(2) "Significant banking relationship" means any of the following activities of a bank:

(A) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(B) Financing of a local agency's securities or funds as deposits.

(C) Acceptance of a local agency's securities or funds as deposits.

(3) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(4) "Securities lending agreement" means an agreement with a local agency that agrees to transfer securities to a borrower who, in turn agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(5) "First tier security" has the same meaning as that phrase is defined by SEC Rule 2a-7 of the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq).

(6) "Local agency" means a county or city and county.

(g) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, or other similar borrowing methods.

(h) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

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

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. (a) This section shall apply to a local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, Section 53601 shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with Section 27130) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other agencies may invest in commercial paper pursuant to subdivision (g) of Section 53601, except that the local agency shall be subject to the following concentration limits:

(1) No more than 40 percent of the local agency's money may be invested in eligible commercial paper.

(2) No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one issuer's commercial paper.

(b) Notwithstanding Section 53601, the City of Los Angeles shall be subject to the concentration limits of this section for counties and for cities and counties with regard to the investment of money in eligible commercial paper.

CHAPTER 165

An act to add Section 6033 to the Business and Professions Code, relating to attorneys.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

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

(a) There is an increasingly dire need for legal services for poor Californians. Due to insufficient funding, existing programs providing free services in civil matters to indigent and disadvantaged persons, especially underserved groups such as elderly, disabled, children, and non-English-speaking persons, do not adequately meet the needs of these persons.

(b) Legal services programs encourage peaceful dispute resolution, efficiently serve millions of poor clients, and promote an ordered society and the peaceful resolution of disputes.

(c) Approximately 80 percent of the legal needs of poor Californians are not being met. Despite the establishment of the state's Equal Access Fund, and impressive gains in efficiency and fundraising by legal aid programs, the current "justice gap" in California is estimated to be at least three hundred and fifty million dollars ($350,000,000), in large part because of federal funding cuts and escalating poverty rates, particularly among children.

(d) California's poverty rate is higher than the national average, and the gap between rich and poor has only worsened in recent years, putting a greater strain on legal services organizations. Although legal services eligibility limits are strict, more than half of all people who meet the standards and seek assistance regarding problems for which legal services offices provide service are currently being turned away simply for lack of resources.

(e) Respect for the law depends upon public confidence in the accessibility of the justice system. Whether disputes are brought to the legal system for resolution or decided in less desirable ways depends in part on whether the courts are available to all who face legal problems. Moreover, the fair resolution of conflicts through the legal system offers financial and economic benefits by reducing the need for many state services and allowing people to help themselves.

(f) Opinion surveys show, disturbingly, that more than two-thirds of Californians believe low-income people usually receive worse outcomes in court than others. Respect for a system of laws is not encouraged if most people perceive, rightly or wrongly, that justice is only for the wealthy.

(g) A lack of representation not only disadvantages people with legal problems, it also burdens the justice system itself and impairs the administration of justice. California courts are facing an ever increasing number of parties who go to court without legal counsel, largely because

they cannot afford representation. Unrepresented litigants typically are unfamiliar with court procedures and forms, as well as with their rights and obligations, which leaves them disadvantaged in court and consumes significant court resources.

(h) California continues to lag far behind other industrial states in total funding of legal services for the poor. Our record is also dismal in comparison to other countries whose economies are similar in size or even smaller than California's economy.

(i) Every lawyer has a professional responsibility to provide legal services to those unable to pay. Many lawyers perform substantial pro bono services or make financial contributions in lieu of performing pro bono services. However, many lawyers, particularly solo practitioners, small firms, and lawyers in the public sector, face special challenges in providing pro bono legal services. The private bar, acting on its own, cannot and should not be called upon to provide full civil representation for California's poor. Nonetheless, the legal profession should play a lead role in the effort to improve the justice system, and each lawyer has a personal obligation as a member of the profession to ensure that all persons have equal access to the courts for redress of grievances and access to lawyers when legal services are necessary, including through the provision of pro bono services and through financial support to nonprofit organizations that provide free legal services to the poor.

(j) Facilitating the collection of voluntary financial contributions by lawyers to legal services organizations is consistent with the mission of the State Bar of California to aid in matters pertaining to the improvement of the administration of justice, including matters that may advance the professional interests of the members of the State Bar and matters concerning the relations of the State Bar with the public.

SEC. 2. Section 6033 is added to the Business and Professions Code, to read:

6033. (a) Notwithstanding any other provision of law, the State Bar is expressly authorized to facilitate the professional responsibilities of members by collecting, in conjunction with the State Bar's collection of its annual membership dues or otherwise, voluntary financial support for nonprofit organizations that provide free legal services to persons of limited means.

(b) To implement this section, the State Bar, in consultation with the Chief Justice of California, shall appoint a task force of key stakeholders to analyze the mechanisms and experience of bar associations that have adopted programs for the collection of financial contributions from bar members and shall propose an appropriate method for facilitating the collection and distribution of voluntary contributions that is best calculated to generate the greatest level of financial support and

participation from State Bar members, taking into account such issues as the justice-gap between the legal needs of low-income people in California and the legal resources available to assist them. The method and any recommended voluntary contribution amount adopted by the Board of Governors of the State Bar of California shall be implemented for the 2008 fiscal year, and shall be reviewed and adjusted as needed after two years and, thereafter, every five years as needed, in consultation with affected service providers and other key stakeholders.

CHAPTER 166

An act to amend Sections 117675, 117945, 118220, 118222, 118280, 118285, and 118310 of, and to add Section 118307 to, the Health and Safety Code, relating to medical waste.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 117675 of the Health and Safety Code is amended to read:

117675. "Infectious agent" means a type of microorganism, bacteria, mold, parasite, or virus, including, but not limited to, organisms managed as Biosafety Level II, III, or IV by the federal Centers for Disease Control and Prevention, that normally causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

SEC. 2. Section 117945 of the Health and Safety Code is amended to read:

117945. Small quantity generators who are not required to register pursuant to this chapter shall maintain on file in their office all of following:

(a) An information document stating how the generator contains, stores, treats, and disposes of any medical waste generated through any act or process of the generator.

(b) Records of any medical waste transported offsite for treatment and disposal, including the quantity of waste transported, the date transported, and the name of the registered hazardous waste hauler or individual hauling the waste pursuant to Section 118030. The small quantity generator shall maintain these records for not less than two years.

SEC. 3. Section 118220 of the Health and Safety Code is amended to read:

118220. Recognizable human anatomical parts, with the exception of teeth not deemed infectious by the attending physician and surgeon or dentist, shall be disposed of by interment or in accordance with paragraph (1) or paragraph (3) of subdivision (a) of Section 118215, unless otherwise hazardous.

SEC. 4. Section 118222 of the Health and Safety Code is amended to read:

118222. (a) Biohazardous waste that meets the conditions of subdivision (f) of Section 117635 shall be treated pursuant to paragraph (1) or paragraph (3) of subdivision (a) of Section 118215 prior to disposal.

(b) Biohazardous waste that meets the conditions specified in subdivision (g) of Section 117635 shall be treated pursuant to paragraph (1) or paragraph (3) of subdivision (a) of Section 118215 prior to disposal.

SEC. 5. Section 118280 of the Health and Safety Code is amended to read:

118280. To containerize biohazard bags, a person shall do all of the following:

(a) The bags shall be tied to prevent leakage or expulsion of contents during all future storage, handling, or transport.

(b) Biohazardous waste, except biohazardous waste as defined in subdivision (g) of Section 117635, shall be bagged in accordance with subdivision (b) of Section 118275 and placed for storage, handling, or transport in a rigid container that may be disposable, reusable, or recyclable. Containers shall be leak resistant, have tight-fitting covers, and be kept clean and in good repair. Containers may be recycled with the approval of the enforcement agency. Containers may be of any color and shall be labeled with the words "Biohazardous Waste" or with the international biohazard symbol and the word "BIOHAZARD" on the lid and on the sides so as to be visible from any lateral direction. Containers meeting the requirements specified in Section 66840 of Title 22 of the California Code of Regulations, as it read on December 31, 1990, may also be used until the replacement of the containers is necessary or existing stock has been depleted.

(c) Biohazardous waste shall not be removed from the biohazard bag until treatment as prescribed in Chapter 8 (commencing with Section 118215) is completed, except to eliminate a safety hazard, or by the enforcement officer in performance of an investigation pursuant to Section 117820. Biohazardous waste shall not be disposed of before

being treated as prescribed in Chapter 8 (commencing with Section 118215).

(d) (1) Except as provided in paragraph (5), a person generating biohazardous waste shall comply with the following requirements:

(A) If the person generates 20 or more pounds of biohazardous waste per month, the person shall not contain or store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) at any onsite location for more than seven days without obtaining prior written approval of the enforcement agency.

(B) If a person generates less than 20 pounds of biohazardous waste per month, the person shall not contain or store biohazardous waste above 0° Centigrade (32° Fahrenheit) at any onsite location for more than 30 days.

(2) A person may store biohazardous or sharps waste at or below 0° Centigrade (32° Fahrenheit) at an onsite location for not more than 90 days without obtaining prior written approval of the enforcement agency.

(3) A person may store biohazardous or sharps waste at a permitted transfer station at or below 0° Centigrade (32° Fahrenheit) for not more than 30 days without obtaining prior written approval of the enforcement agency.

(4) A person shall not store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) at any location or facility that is offsite from the generator for more than seven days before treatment.

(5) Notwithstanding paragraphs (1) to (4), inclusive, if the odor from biohazardous or sharps waste stored at a facility poses a nuisance, the enforcement agency may require more frequent removal.

(e) Waste that meets the definition of biohazardous waste in subdivision (g) of Section 117635 shall not be subject to the limitations on storage time prescribed in subdivision (d). A person may store that biohazardous waste at an onsite location for not longer than 90 days when the container is ready for disposal or, unless prior written approval from the enforcement agency or the department is obtained. The container shall be emptied at least once per year, unless prior written approval from the enforcement agency of the department is obtained. A person may store that biohazardous waste at a permitted transfer station for not longer than 30 days without obtaining prior written approval from the enforcement agency or the department. A person shall not store that biohazardous waste at any location or facility that is offsite from the generator for more than 30 days before treatment.

(f) The containment and storage time for wastes consolidated in a common container pursuant to subdivision (h) of Section 118275 shall not exceed the storage time for any category of waste set forth in this section.

SEC. 6. Section 118285 of the Health and Safety Code is amended to read:

118285. To containerize sharps waste, a person shall do all of the following:

(a) Place all sharps waste into a sharps container.

(b) Tape closed or tightly lid full sharps containers ready for disposal to preclude loss of contents.

(c) Store sharps containers ready for disposal for not more than thirty days without the written approval of the enforcement agency.

(d) Label sharps containers with the words "sharps waste" or with the international biohazard symbol and the word "BIOHAZARD."

SEC. 7. Section 118307 is added to the Health and Safety Code, to read:

118307. Medical waste that is stored in an area prior to transfer to the designated accumulation area, as defined in Section 118310, shall be stored in an area that is either locked or under direct supervision or surveillance. Intermediate storage areas shall be marked with the international biohazardous symbol or the signage described in Section 118310. These warning signs shall be readily legible from a distance of five feet.

SEC. 8. Section 118310 of the Health and Safety Code is amended to read:

118310. A designated accumulation area used for the storage of medical waste containers prior to transportation or treatment shall be secured so as to deny access to unauthorized persons and shall be marked with warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. The storage area may be secured by use of locks on entry doors, gates, or receptacle lids.

The wording of warning signs shall be in English, "CAUTION—BIOHAZARDOUS WASTE STORAGE AREA—UNAUTHORIZED PERSONS KEEP OUT," and in Spanish, "CUIDADO—ZONA DE RESIDUOS—BIOLOGICOS PELIGROSOS—PROHIBIDA LA ENTRADA A PERSONAS NO AUTORIZADAS," or in another language, in addition to English, determined to be appropriate by the infection control staff or enforcement agency. A warning sign concerning infectious waste, as that term was defined by Section 25117.5 as it read on December 31, 1990, that sign having been installed before April 1, 1991, meets the requirements of this section, until the sign is changed and as long as the sign is not moved. Warning signs shall be readily legible during daylight from a distance of at least 25 feet.

Any enclosure or designated accumulation area shall provide medical waste protection from animals and natural elements and shall not provide a breeding place or a food source for insects or rodents.

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 167

An act to amend Sections 52.2, 1369.520, and 1950.5 of the Civil Code, to amend Sections 116.360, 116.390, 116.540, and 116.610 of the Code of Civil Procedure, to amend Sections 311.4 and 1702.1 of the Public Utilities Code, and to amend Section 742.16 of the Welfare and Institutions Code, relating to courts.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 52.2 of the Civil Code is amended to read:

52.2. An action pursuant to Section 52 or 54.3 may be brought in any court of competent jurisdiction. A "court of competent jurisdiction" shall include small claims court if the amount of the damages sought in the action does not exceed the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure.

SEC. 2. Section 1369.520 of the Civil Code is amended to read:

1369.520. (a) An association or an owner or a member of a common interest development may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article.

(b) This section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure.

(c) This section does not apply to a small claims action.

(d) Except as otherwise provided by law, this section does not apply to an assessment dispute.

SEC. 3. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) This section applies to security for a rental agreement for residential property that is used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, any payment, fee, deposit, or charge, except as provided in Section 1950.6, that is imposed at the beginning of the tenancy to be used to reimburse the landlord for costs associated with processing a new tenant or that is imposed as an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy necessary to return the unit to the same level of cleanliness it was in at the inception of the tenancy. The amendments to this paragraph enacted by the act adding this sentence shall apply only to tenancies for which the tenant's right to occupy begins after January 1, 2003.

(4) To remedy future defaults by the tenant in any obligation under the rental agreement to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear, if the security deposit is authorized to be applied thereto by the rental agreement.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent, in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy.

This subdivision does not prohibit an advance payment of not less than six months' rent if the term of the lease is six months or longer.

This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary for the purposes specified in subdivision (b). The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f) (1) Within a reasonable time after notification of either party's intention to terminate the tenancy, or before the end of the lease term, the landlord shall notify the tenant in writing of his or her option to request an initial inspection and of his or her right to be present at the inspection. The requirements of this subdivision do not apply when the tenancy is terminated pursuant to subdivision (2), (3), or (4) of Section 1161 of the Code of Civil Procedure. At a reasonable time, but no earlier than two weeks before the termination or the end of lease date, the landlord, or an agent of the landlord, shall, upon the request of the tenant, make an initial inspection of the premises prior to any final inspection the landlord makes after the tenant has vacated the premises. The purpose of the initial inspection shall be to allow the tenant an opportunity to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement, in order to avoid deductions from the security. If a tenant chooses not to request an initial inspection, the duties of the landlord under this subdivision are discharged. If an inspection is requested, the parties shall attempt to schedule the inspection at a mutually acceptable date and time. The landlord shall give at least 48 hours' prior written notice of the date and time of the inspection if either a mutual time is agreed upon, or if a mutually agreed time cannot be scheduled but the tenant still wishes an inspection. The tenant and landlord may agree to forgo the 48-hour prior written notice by both signing a written waiver. The landlord shall proceed with the inspection whether the tenant is present or not, unless the tenant previously withdrew his or her request for the inspection.

(2) Based on the inspection, the landlord shall give the tenant an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the security the landlord intends to make pursuant to paragraphs (1) to (4), inclusive of subdivision (b). This statement shall also include the texts of paragraphs (1) to (4), inclusive, of subdivision (b). The statement shall be given to the tenant, if the tenant is present for the inspection, or shall be left inside the premises.

(3) The tenant shall have the opportunity during the period following the initial inspection until termination of the tenancy to remedy identified deficiencies, in a manner consistent with the rights and obligations of

the parties under the rental agreement, in order to avoid deductions from the security.

(4) Nothing in this subdivision shall prevent a landlord from using the security for deductions itemized in the statement provided for in paragraph (2) that were not cured by the tenant so long as the deductions are for damages authorized by this section.

(5) Nothing in this subdivision shall prevent a landlord from using the security for any purpose specified in paragraphs (1) to (4), inclusive, of subdivision (b) that occurs between completion of the initial inspection and termination of the tenancy or was not identified during the initial inspection due to the presence of a tenant's possessions.

(g) (1) No later than 21 calendar days after the tenant has vacated the premises, but not earlier than the time that either the landlord or the tenant provides a notice to terminate the tenancy under Section 1946 or 1946.1, Section 1161 of the Code of Civil Procedure, or not earlier than 60 calendar days prior to the expiration of a fixed-term lease, the landlord shall furnish the tenant, by personal delivery or by first-class mail, postage prepaid, a copy of an itemized statement indicating the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(2) Along with the itemized statement, the landlord shall also include copies of documents showing charges incurred and deducted by the landlord to repair or clean the premises, as follows:

(A) If the landlord or landlord's employee did the work, the itemized statement shall reasonably describe the work performed. The itemized statement shall include the time spent and the reasonable hourly rate charged.

(B) If the landlord or landlord's employee did not do the work, the landlord shall provide the tenant a copy of the bill, invoice, or receipt supplied by the person or entity performing the work. The itemized statement shall provide the tenant with the name, address, and telephone number of the person or entity, if the bill, invoice, or receipt does not include that information.

(C) If a deduction is made for materials or supplies, the landlord shall provide a copy of the bill, invoice, or receipt. If a particular material or supply item is purchased by the landlord on an ongoing basis, the landlord may document the cost of the item by providing a copy of a bill, invoice, receipt, vendor price list, or other vendor document that reasonably documents the cost of the item used in the repair or cleaning of the unit.

(3) If a repair to be done by the landlord or the landlord's employee cannot reasonably be completed within 21 calendar days after the tenant has vacated the premises, or if the documents from a person or entity

providing services, materials, or supplies are not in the landlord's possession within 21 calendar days after the tenant has vacated the premises, the landlord may deduct the amount of a good faith estimate of the charges that will be incurred and provide that estimate with the itemized statement. If the reason for the estimate is because the documents from a person or entity providing services, materials, or supplies are not in the landlord's possession, the itemized statement shall include the name, address, and telephone number of the person or entity. Within 14 calendar days of completing the repair or receiving the documentation, the landlord shall complete the requirements in paragraphs (1) and (2) in the manner specified.

(4) The landlord need not comply with paragraph (2) or (3) if either of the following apply:

(A) The deductions for repairs and cleaning together do not exceed one hundred twenty-five dollars ($125).

(B) The tenant waived the rights specified in paragraphs (2) and (3). The waiver shall only be effective if it is signed by the tenant at the same time or after a notice to terminate a tenancy under Section 1946 or 1946.1 has been given, a notice under Section 1161 of the Code of Civil Procedure has been given, or no earlier than 60 calendar days prior to the expiration of a fixed-term lease. The waiver shall substantially include the text of paragraph (2).

(5) Notwithstanding paragraph (4), the landlord shall comply with paragraphs (2) and (3) when a tenant makes a request for documentation within 14 calendar days after receiving the itemized statement specified in paragraph (1). The landlord shall comply within 14 calendar days after receiving the request from the tenant.

(6) Any mailings to the tenant pursuant to this subdivision shall be sent to the address provided by the tenant. If the tenant does not provide an address, mailings pursuant to this subdivision shall be sent to the unit that has been vacated.

(h) Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest. The landlord shall thereafter notify the tenant by personal delivery or by first-class mail, postage prepaid, of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery,

the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (g).

(i) Prior to the voluntary transfer of a landlord's interest in the premises, the landlord shall deliver to the landlord's successor in interest a written statement indicating the following:

(1) The security remaining after any lawful deductions are made.

(2) An itemization of any lawful deductions from any security received.

(3) His or her election under paragraph (1) or (2) of subdivision (h).

This subdivision does not affect the validity of title to the real property transferred in violation of this subdivision.

(j) In the event of noncompliance with subdivision (h), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (g). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (h), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (h) or provides the tenant with an accounting as provided in subdivision (g).

This subdivision does not preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

Notwithstanding this subdivision, if, upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (h), he or she is not liable for damages as provided in subdivision (*l*), or any security not transferred pursuant to subdivision (h).

(k) Upon receipt of any portion of the security under paragraph (1) of subdivision (h), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(*l*) The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof in violation of this section, or the bad faith demand of replacement security in violation of subdivision (j), may subject the landlord or the landlord's successors in interest to statutory damages of up to twice the amount of

the security, in addition to actual damages. The court may award damages for bad faith whenever the facts warrant that award, regardless of whether the injured party has specifically requested relief. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(m) No lease or rental agreement may contain any provision characterizing any security as "nonrefundable."

(n) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or statutory or both, are within the jurisdictional amount allowed by Section 116.220 or 116.221 of the Code of Civil Procedure.

(o) Proof of the existence of and the amount of a security deposit may be established by any credible evidence, including, but not limited to, a canceled check, a receipt, a lease indicating the requirement of a deposit as well as the amount, prior consistent statements or actions of the landlord or tenant, or a statement under penalty of perjury that satisfies the credibility requirements set forth in Section 780 of the Evidence Code.

(p) The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature that are set forth in subdivision (e) are declaratory of existing law.

(q) The amendments to this section made during the 2003 portion of the 2003–04 Regular Session of the Legislature that are set forth in paragraph (1) of subdivision (f) are declaratory of existing law.

SEC. 4. Section 116.360 of the Code of Civil Procedure is amended to read:

116.360. (a) The defendant may file a claim against the plaintiff in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231. The claim need not relate to the same subject or event as the plaintiff's claim.

(b) The defendant's claim shall be filed and served in the manner provided for filing and serving a claim of the plaintiff under Sections 116.330 and 116.340.

(c) The defendant shall cause a copy of the claim and order to be served on the plaintiff at least five days before the hearing date, unless the defendant was served 10 days or less before the hearing date, in which event the defendant shall cause a copy of the defendant's claim and order to be served on the plaintiff at least one day before the hearing date.

SEC. 5. Section 116.390 of the Code of Civil Procedure is amended to read:

116.390. (a) If a defendant has a claim against a plaintiff that exceeds the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231, and the claim relates to the contract, transaction, matter, or event which is the subject of the plaintiff's claim, the defendant may commence an action against the plaintiff in a court of competent jurisdiction and request the small claims court to transfer the small claims action to that court.

(b) The defendant may make the request by filing with the small claims court in which the plaintiff commenced the action, at or before the time set for the hearing of that action, a declaration stating the facts concerning the defendant's action against the plaintiff with a true copy of the complaint so filed by the defendant against the plaintiff. The defendant shall cause a copy of the declaration and complaint to be personally delivered to the plaintiff at or before the time set for the hearing of the small claims action.

(c) In ruling on a motion to transfer, the small claims court may do any of the following: (1) render judgment on the small claims case prior to the transfer; (2) not render judgment and transfer the small claims case; (3) refuse to transfer the small claims case on the grounds that the ends of justice would not be served. If the small claims action is transferred prior to judgment, both actions shall be tried together in the transferee court.

(d) When the small claims court orders the action transferred, it shall transmit all files and papers to the transferee court.

(e) The plaintiff in the small claims action shall not be required to pay to the clerk of the transferee court any transmittal, appearance, or filing fee unless the plaintiff appears in the transferee court, in which event the plaintiff shall be required to pay the filing fee and any other fee required of a defendant in the transferee court. However, if the transferee court rules against the plaintiff in the action filed in that court, the court may award to the defendant in that action the costs incurred as a consequence of the transfer, including attorney's fees and filing fees.

SEC. 6. Section 116.540 of the Code of Civil Procedure is amended to read:

116.540. (a) Except as permitted by this section, no individual other than the plaintiff and the defendant may take part in the conduct or defense of a small claims action.

(b) Except as additionally provided in subdivision (i), a corporation may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, who is employed, appointed, or elected for purposes other than solely representing the corporation in small claims court.

(c) A party who is not a corporation or a natural person may appear and participate in a small claims action only through a regular employee,

or a duly appointed or elected officer or director, or in the case of a partnership, a partner, engaged for purposes other than solely representing the party in small claims court.

(d) If a party is an individual doing business as a sole proprietorship, the party may appear and participate in a small claims action by a representative and without personally appearing if both of the following conditions are met:

(1) The claim can be proved or disputed by evidence of an account that constitutes a business record as defined in Section 1271 of the Evidence Code, and there is no other issue of fact in the case.

(2) The representative is a regular employee of the party for purposes other than solely representing the party in small claims actions and is qualified to testify to the identity and mode of preparation of the business record.

(e) A plaintiff is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if (1) the plaintiff is serving on active duty in the United States Armed Forces outside this state, (2) the plaintiff was assigned to his or her duty station after his or her claim arose, (3) the assignment is for more than six months, (4) the representative is serving without compensation, and (5) the representative has appeared in small claims actions on behalf of others no more than four times during the calendar year. The defendant may file a claim in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231.

(f) A party incarcerated in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities facility is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim, or may authorize another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(g) A defendant who is a nonresident owner of real property may defend against a claim relating to that property without personally appearing by (1) submitting written declarations to serve as evidence supporting his or her defense, (2) allowing another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year, or (3) taking the action described in both (1) and (2).

(h) A party who is an owner of rental real property may appear and participate in a small claims action through a property agent under contract with the owner to manage the rental of that property, if (1) the

owner has retained the property agent principally to manage the rental of that property and not principally to represent the owner in small claims court, and (2) the claim relates to the rental property.

(i) A party that is an association created to manage a common interest development, as defined in Section 1351 of the Civil Code, may appear and participate in a small claims action through an agent, a management company representative, or bookkeeper who appears on behalf of that association.

(j) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of a party under subdivisions (b) to (i), inclusive, to file a declaration stating (1) that the individual is authorized to appear for the party, and (2) the basis for that authorization. If the representative is appearing under subdivision (b), (c), (d), (h), or (i), the declaration also shall state that the individual is not employed solely to represent the party in small claims court. If the representative is appearing under subdivision (e), (f), or (g), the declaration also shall state that the representative is serving without compensation, and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(k) A husband or wife who sues or who is sued with his or her spouse may appear and participate on behalf of his or her spouse if (1) the claim is a joint claim, (2) the represented spouse has given his or her consent, and (3) the court determines that the interests of justice would be served.

(*l*) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.

(m) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

SEC. 7. Section 116.610 of the Code of Civil Procedure is amended to read:

116.610. (a) The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231, and may make any orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.

(b) The court may, at its discretion or on request of any party, continue the matter to a later date in order to permit and encourage the parties to attempt resolution by informal or alternative means.

(c) The judgment shall include a determination whether the judgment resulted from a motor vehicle accident on a California highway caused by the defendant's operation of a motor vehicle, or by the operation by

some other individual, of a motor vehicle registered in the defendant's name.

(d) If the defendant has filed a claim against the plaintiff, or if the judgment is against two or more defendants, the judgment, and the statement of decision if one is rendered, shall specify the basis for and the character and amount of the liability of each of the parties, including, in the case of multiple judgment debtors, whether the liability of each is joint or several.

(e) If specific property is referred to in the judgment, whether it be personal or real, tangible or intangible, the property shall be identified with sufficient detail to permit efficient implementation or enforcement of the judgment.

(f) In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.

(g) (1) The prevailing party is entitled to the costs of the action, including the costs of serving the order for the appearance of the defendant.

(2) Notwithstanding paragraph (1) of this subdivision and subdivision (b) of Section 1032, the amount of the small claims court fee paid by a party pursuant to subdivision (c) of Section 116.230 that exceeds the amount that would have been paid if the party had paid the fee pursuant to subdivision (b) of Section 116.230 shall not be recoverable as costs.

(h) When the court renders judgment, the clerk shall promptly deliver or mail notice of entry of the judgment to the parties, and shall execute a certificate of personal delivery or mailing and place it in the file.

(i) The notice of entry of judgment shall be on a form approved or adopted by the Judicial Council.

SEC. 8. Section 311.4 of the Public Utilities Code is amended to read:

311.4. (a) On or after July 1, 2001, the commission shall establish procedures to permit the submission of informal complaints through electronic means in accordance with this section.

(b) On or before January 1, 2002, the commission shall provide on its Internet Web site the means by which consumers may submit informal complaints through electronic means.

(c) It is the intent of the Legislature that, commencing one year from the date that the procedures described in subdivision (a) are implemented, the commission annually review the procedures and the technology involved to ensure the continued effectiveness of the program, and report any findings to the Legislature.

(d) For the purpose of this section, "electronic means" includes, but shall not be limited to, e-mail or the Internet, or both.

(e) Upon the receipt of an informal complaint submitted by electronic means, the commission shall immediately forward the complaint to the entity named in the complaint.

(f) The commission shall permit the submission of informal complaints through electronic means, if, as determined by the commission, both of the following conditions are met:

(1) The dollar amount in the complaint does not exceed the jurisdictional limit of a small claims court specified in subdivision (a) of Section 116.220 or Section 116.221 of the Code of Civil Procedure.

(2) The commission has addressed any impediments in the electronic systems employed by the commission that would prevent or substantially adversely affect the ability of the commission to receive informal complaints by electronic means.

(g) The commission shall include a notice on its Internet Web site of the availability of the procedures described in subdivision (a).

(h) For the purposes of implementing this section, the commission shall make available to the public an industry specific online complaint form that allows a customer to specify information that the commission determines to be relevant for purposes of resolving a dispute, including the account number, the type of dispute, and the opportunity to make general comments.

(i) This act may not be implemented, and no information technology-related preparatory work may be undertaken in connection with this act prior to July 1, 2001, without the concurrence of the commission and the authorization of the Department of Information Technology pursuant to Executive Order D-3-99.

SEC. 9. Section 1702.1 of the Public Utilities Code is amended to read:

1702.1. (a) The commission shall entertain complaints against any electrical, gas, water, heat, or telephone company under Sections 734, 735, and 736 when the amount of money claimed does not exceed the jurisdictional limit of the small claims court as set forth in subdivision (a) of Section 116.220 or Section 116.221 of the Code of Civil Procedure. However, when the public interest so requires, the commission or presiding officer may, at any time prior to the filing of a decision, terminate the expedited complaint procedure and recalendar the matter for hearing under the commission's regular procedure.

(b) No attorney at law shall represent any party other than himself or herself under the expedited complaint procedure.

(c) No pleading other than the complaint and answer is necessary. A hearing without a reporter shall be held within 30 days after the answer is filed.

(d) The parties may file applications for rehearing pursuant to Section 1731. If the commission grants an application for rehearing, the rehearing shall be conducted under the commission's regular hearing procedure.

SEC. 10. Section 742.16 of the Welfare and Institutions Code is amended to read:

742.16. (a) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate, shall require the minor to wash, paint, repair, or replace the property defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both. In any case in which the minor is not granted probation or in which the minor's cleanup, repair, or replacement of the property will not return the property to its condition before it was defaced, damaged, or destroyed, the court shall make a finding of the amount of restitution that would be required to fully compensate the owner and possessor of the property for their damages. The court shall order the minor or the minor's estate to pay that restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both, to the extent the court determines that the minor or the minor's estate have the ability to do so, except in any case in which the court makes a finding and states on the record its reasons why full restitution would be inappropriate. If full restitution is found to be inappropriate, the court shall require the minor to perform specified community service, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate.

(b) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the graffiti or other material inscribed by the minor has been removed, or the property defaced by the minor has been repaired or replaced by a public entity that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section and has made cost findings in accordance with subdivisions (c) or (d) of Section 742.14, the court shall determine the total cost incurred by the public entity for said removal, repair, or replacement,

using, if applicable, the cost findings most recently adopted by the public entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(c) If the minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate has the ability to do so.

(d) If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to Section 1714.1 of the Civil Code for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

(e) The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(f) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars ($5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct that hearing in accordance with Sections 116.510 and 116.520 of the Code of Civil Procedure.

Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a husband or wife may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

(g) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars ($5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an attorney or nonattorney designee of the probation officer. The parent or parents shall not be entitled to court-appointed counsel or to counsel compensated at public expense.

(h) At the hearing conducted pursuant to subdivision (d), there shall be a presumption affecting the burden of proof that the findings of the court made pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor that forms the basis of the finding that the minor is a person described in Section 602.

(i) If the parent or parents, after having been cited to appear pursuant to Section 742.18, fail to appear as ordered, the court shall order the parent or parents to pay the full amount of the costs and damages determined by the court pursuant to subdivisions (a), (b), and (c).

(j) Execution may be issued on an order issued by the court pursuant to this section in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(k) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the showing of a change in circumstances relating to his or her ability to pay the judgment.

(*l*) For purposes of a hearing conducted pursuant to subdivision (d), the judge of the juvenile court shall have the jurisdiction of a judge of the superior court in a limited civil case, and if the amount of the demand is within the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure, the judge of the juvenile court shall have the powers of a judge presiding over the small claims court.

(m) Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(n) The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k), to order payment by the minor and his or her parent or parents of less than the full costs described in subdivisions (a), (b),

and (c), on grounds of financial inability or for reasons of justice, shall not be available to a superior court in an ordinary civil proceeding pursuant to subdivision (b) of Section 1714.1 of the Civil Code, except that in any proceeding pursuant to either subdivision (b) of Section 1714.1 of the Civil Code or this section, the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars ($20,000) for each tort of the minor.

CHAPTER 168

An act to add Sections 17558.7, 17558.8, and 17602 to the Government Code, relating to state mandates.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 17558.7 is added to the Government Code, to read:

17558.7. (a) If the Controller reduces a claim approved by the commission, the claimant may file with the commission an incorrect reduction claim pursuant to regulations adopted by the commission.

(b) A claimant eligible to file an incorrect reduction claim may file a consolidated incorrect reduction claim on behalf of other claimants whose claims for reimbursement under the same mandate are alleged to have been incorrectly reduced if all of the following apply:

(1) The method, act, or practice that the claimant alleges led to the reduction has led to similar reductions of other parties' claims, and all of the claims involve common questions of law or fact.

(2) The common questions of law or fact among the claims predominate over any matter affecting only an individual claim.

(3) The consolidation of similar claims by individual claimants would result in consistent decisionmaking by the commission.

(4) The claimant filing the consolidated claim would fairly and adequately protect the interests of the other claimants.

(c) A claimant that seeks to file a consolidated incorrect reduction claim shall, at the time it files an incorrect reduction claim, on a form provided by the commission, notify the commission of its intent to file a consolidated incorrect reduction claim.

(d) Within 10 days after receipt of an incorrect reduction claim and notice of intent to consolidate, the commission shall request that the

Controller provide the commission and the claimant with a list of claimants for whom the Controller has reduced similar claims under the same mandate. Upon receipt of this list from the Controller, the claimant may notify the claimants on the list and other interested parties of its intent to file a consolidated incorrect reduction claim.

(e) Within 30 days of receipt of the notice of intent to consolidate from the original claimant, on a form provided by the commission, any other eligible claimant shall file with the commission its notice of intent to join the consolidated incorrect reduction claim, which shall include a copy of the remittance advice or other notice from the Controller of the claim reduction, and one copy of the reimbursement claims for which an incorrect reduction is alleged.

(f) The commission shall notify each claimant that files an intent to join the consolidated incorrect reduction claim that it may opt out of the consolidated claim and not be bound by any determination made on that consolidated claim. A claimant may opt out of a consolidated claim no later than 15 days after the state agency files comments on the consolidated claim. A claimant that opts out of the consolidated claim, in order to preserve its right to challenge a reduction made by the Controller on that same mandate, shall file an individual incorrect reduction claim pursuant to commission requirements, no later than one year after opting out or within the statute of limitations under the commission's regulations.

(g) The commission shall adopt regulations establishing procedures for receiving a consolidated incorrect reduction claim pursuant to this section and for providing a hearing on a consolidated claim.

SEC. 2. Section 17558.8 is added to the Government Code, to read:

17558.8. (a) The commission may, on its own initiative, consolidate incorrect reduction claims filed with the commission by different claimants under the same mandate if all of the following apply:

(1) The same method, act, or practice is alleged to have led to the reduction in each claim, and all of the claims involve common questions of law or fact.

(2) The common questions of law or fact among the claims predominate over any matter affecting only an individual claim.

(3) The consolidation of similar claims by individual claimants would result in consistent decisionmaking by the commission.

(b) The commission shall adopt regulations establishing procedures for consolidation of incorrect reduction claim pursuant to this section and for providing a hearing on a consolidated claim.

SEC. 3. Section 17602 is added to the Government Code, to read:

17602. On or before January 15, 2007, and on or before each January 15 thereafter, the commission shall report to the Legislature the number

of individual and consolidated incorrect reduction claims decided during the preceding calendar year and whether and why the reduction was upheld or overturned.

CHAPTER 169

An act to amend Sections 1651.5 and 4601.5 of, and to add Section 9559.5 to, and to add Article 5 (commencing with Section 8100) to Chapter 4 of Division 3 of, the Vehicle Code, relating to vehicles.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 1651.5 of the Vehicle Code is amended to read:

1651.5. (a) The director may assign or reassign dates for the expiration of registration for a vehicle registered pursuant to this code. The director may establish a registration year for any vehicle consisting of any period from seven months to 18 months, inclusive, with subsequent renewals being required at yearly intervals thereafter. The director shall assign an expiration date of the last day of the calendar month to all trailers and to all motor vehicles subject to additional fees under the provisions of Section 9400. Any vehicle being registered on a quarterly basis shall be assigned or reassigned an expiration date of December 31 for the registration year. The director shall have the authority to exclude from year-round registration any type of vehicle that the director deems appropriate for exclusion.

(b) In order to implement a year-round registration for vehicles registered pursuant to the International Registration Plan as described in Article 4 (commencing with Section 8050) of Chapter 4 of Division 3, the director, on or before January 1, 2009, shall assign or reassign a date for the expiration of registration of those vehicles described in this subdivision and may utilize the applicable practices and procedures set forth under subdivision (a) in order to implement this subdivision.

SEC. 2. Section 4601.5 of the Vehicle Code is amended to read:

4601.5. Notwithstanding Section 4601, the registration for vehicles registered pursuant to the Partial Year Registration Program as described in Article 5 (commencing with Section 9700) of Chapter 6 of Division 3, expires at midnight of December 31 of the registration year. However, for the purposes of applying any future reductions or increases in the vehicle license fee, the vehicle registrations subject to this section shall

be deemed to have a final expiration date in the succeeding calendar year.

SEC. 3. Article 5 (commencing with Section 8100) is added to Chapter 4 of Division 3 of the Vehicle Code, to read:

Article 5. Federal Motor Vehicle Safety Program

8100. An application for apportioned registration received on and after January 1, 2008, and filed pursuant to Article 4 (commencing with Section 8050) shall contain the following information:

(a) The United States Department of Transportation Number issued to the person responsible for the safe operation of each vehicle being registered.

(b) The taxpayer identification number corresponding to the United States Department of Transportation number provided in the apportioned registration application. The taxpayer identification number may consist of the federal employer identification number or the social security number, as applicable.

(c) Notwithstanding any other provision of law, the taxpayer identification number provided pursuant to this section is confidential and shall not be disclosed by the department except to law enforcement or a federal agency, or as required by law.

8101. In addition to the reasons specified in Section 4750 or 4751, the department shall refuse an application for apportioned registration for the following grounds:

(a) The applicant has failed to furnish the department with information required in the application under Section 8100.

(b) The person responsible for the safety of the vehicle or fleet is prohibited from operating in interstate commerce by a federal agency.

8102. (a) In addition to the reasons specified in Section 8800, the department may suspend the apportioned registration of a vehicle or a fleet, when the person responsible for the safety of the vehicle or a fleet of vehicles is prohibited from operating in interstate commerce by a federal agency.

(b) Whenever the department suspends the apportioned registration of a vehicle or a fleet pursuant to subdivision (a), the department may refuse the issuance of vehicle registration as authorized pursuant to Section 4751.

(c) Whenever the department suspends the apportioned registration under subdivision (a), the department shall furnish the person responsible for the vehicle or fleet with written notice of the suspension.

(d) When an apportioned registration is suspended pursuant to this section, and that suspension is based wholly or in part on the failure of

the person to maintain a vehicle or a fleet in safe operating condition, the person to whom the registration was issued shall not lease, or otherwise allow, another person to operate a vehicle that is subject to the suspension during the period of the suspension.

(e) A person shall not knowingly lease, operate, dispatch, or otherwise utilize a vehicle from another person whose apportioned registration is suspended, when that suspension is based wholly or in part on the failure of the person to maintain a vehicle or a fleet in safe operating condition.

(f) The apportioned registration of a vehicle or a fleet, that was suspended because the vehicle or fleet is prohibited from operating in interstate commerce by a federal agency may be reinstated upon notification from the federal agency that the prohibition has been lifted.

(g) Notwithstanding any other provision of this code, before an apportioned registration may be reissued after a suspension is terminated, there shall, in addition to other fees required by this code, be paid to the department a fee of one hundred fifty dollars ($150). This fee shall be deposited in the Motor Vehicle Account to cover the department's cost of administering this program.

8103. Notwithstanding any other provision of this code, a hearing shall not be provided when the suspension is based solely on notification by a federal agency that interstate operation is prohibited.

8104. Except as provided in subdivision (e), a vehicle or a fleet for which the apportioned registration has been suspended pursuant to this article shall not be operated in interstate or intrastate commerce unless evidence is provided to the department that the vehicle or the fleet is to be operated by a person whose apportioned registration is not subject to a suspension pursuant to this article and who has a valid apportioned registration pursuant to Article 4 (commencing with Section 8050) or Division 14.85.

SEC. 4. Section 9559.5 is added to the Vehicle Code, to read:

9559.5. When, by reason of the assignment or reassignment of a renewal registration date by the director, the registration year is less than, or more than, 12 months, the fee due for that renewal shall be decreased or increased by one-twelfth of the annual fee for each month of the period less than, or in excess of, 12 months.

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 170

An act to amend Sections 296.1, 297, and 298.1 of the Penal Code, relating to DNA testing.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 296.1 of the Penal Code is amended to read:

296.1. (a) The specimens, samples, and print impressions required by this chapter shall be collected from persons described in subdivision (a) of Section 296 for present and past qualifying offenses of record as follows:

(1) Collection from any adult person following arrest for a felony offense as specified in subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a) of Section 296:

(A) Each adult person arrested for a felony offense as specified in subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a) of Section 296 shall provide the buccal swab samples and thumb and palm print impressions and any blood or other specimens required pursuant to this chapter immediately following arrest, or during the booking or intake or prison reception center process or as soon as administratively practicable after arrest, but, in any case, prior to release on bail or pending trial or any physical release from confinement or custody.

(B) If the person subject to this chapter did not have specimens, samples, and print impressions taken immediately following arrest or during booking or intake procedures or is released on bail or pending trial or is not confined or incarcerated at the time of sentencing or otherwise bypasses a prison inmate reception center maintained by the Department of Corrections and Rehabilitation, the court shall order the person to report within five calendar days to a county jail facility or to a city, state, local, private, or other designated facility to provide the required specimens, samples, and print impressions in accordance with subdivision (i) of Section 295.

(2) Collection from persons confined or in custody after conviction or adjudication:

(A) Any person, including any juvenile who is imprisoned or confined or placed in a state correctional institution, a county jail, a facility within the jurisdiction of the Department of Corrections and Rehabilitation, the Corrections Standards Authority, a residential treatment program, or any state, local, city, private, or other facility after a conviction of any felony or misdemeanor offense, or any adjudication or disposition rendered in the case of a juvenile, whether or not that crime or offense is one set forth in subdivision (a) of Section 296, shall provide buccal swab samples and thumb and palm print impressions and any blood or other specimens required pursuant to this chapter, immediately at intake, or during the prison reception center process, or as soon as administratively practicable at the appropriate custodial or receiving institution or the program in which the person is placed, if:

(i) The person has a record of any past or present conviction or adjudication as a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296; and

(ii) The person's blood specimens, buccal swab samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory or have not been recorded as part of the department's DNA databank program.

(3) Collection from persons on probation, parole, or other release:

(A) Any person, including any juvenile, who has a record of any past or present conviction or adjudication for an offense set forth in subdivision (a) of Section 296, and who is on probation or parole for any felony or misdemeanor offense, whether or not that crime or offense is one set forth in subdivision (a) of Section 296, shall provide buccal swab samples and thumb and palm print impressions and any blood specimens required pursuant to this chapter, if:

(i) The person has a record of any past or present conviction or adjudication as a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296; and

(ii) The person's blood specimens, buccal swab samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory or have not been recorded as part of the department's DNA databank program.

(B) The person shall have any required specimens, samples, and print impressions collected within five calendar days of being notified by the court, or a law enforcement agency or other agency authorized by the Department of Justice. The specimens, samples, and print impressions shall be collected in accordance with subdivision (i) of Section 295 at a county jail facility or a city, state, local, private, or other facility designated for this collection.

(4) Collection from parole violators and others returned to custody:

(A) If a person, including any juvenile, who has been released on parole, furlough, or other release for any offense or crime, whether or not set forth in subdivision (a) of Section 296, is returned to a state correctional or other institution for a violation of a condition of his or her parole, furlough, or other release, or for any other reason, that person shall provide buccal swab samples and thumb and palm print impressions and any blood or other specimens required pursuant to this chapter, at a state correctional or other receiving institution, if:

(i) The person has a record of any past or present conviction or adjudication as a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296; and

(ii) The person's blood specimens, buccal swab samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory or have not been recorded as part of the department's DNA databank program.

(5) Collection from persons accepted into California from other jurisdictions:

(A) When an offender from another state is accepted into this state under any of the interstate compacts described in Article 3 (commencing with Section 11175) or Article 4 (commencing with Section 11189) of Chapter 2 of Title 1 of Part 4 of this code, or Chapter 4 (commencing with Section 1300) of Part 1 of Division 2 of the Welfare and Institutions Code, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the offender is confined or released, the acceptance is conditional on the offender providing blood specimens, buccal swab samples, and palm and thumb print impressions pursuant to this chapter, if the offender has a record of any past or present conviction or adjudication in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication or had a disposition rendered in any other court, including any state, federal, or

military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296.

(B) If the person is not confined, the specimens, samples, and print impressions required by this chapter must be provided within five calendar days after the person reports to the supervising agent or within five calendar days of notice to the person, whichever occurs first. The person shall report to a county jail facility in the county where he or she resides or temporarily is located to have the specimens, samples, and print impressions collected pursuant to this chapter. The specimens, samples, and print impressions shall be collected in accordance with subdivision (i) of Section 295.

(C) If the person is confined, he or she shall provide the blood specimens, buccal swab samples, and thumb and palm print impressions required by this chapter as soon as practicable after his or her receipt in a state, county, city, local, private, or other designated facility.

(6) Collection from persons in federal institutions:

(A) Subject to the approval of the Director of the FBI, persons confined or incarcerated in a federal prison or federal institution who have a record of any past or present conviction or juvenile adjudication for a qualifying offense described in subdivision (a) of Section 296, or of a similar crime under the laws of the United States or any other state that would constitute an offense described in subdivision (a) of Section 296, are subject to this chapter and shall provide blood specimens, buccal swab samples, and thumb and palm print impressions pursuant to this chapter if any of the following apply:

(i) The person committed a qualifying offense in California.

(ii) The person was a resident of California at the time of the qualifying offense.

(iii) The person has any record of a California conviction for an offense described in subdivision (a) of Section 296, regardless of when the crime was committed.

(iv) The person will be released in California.

(B) The Department of Justice DNA Laboratory shall, upon the request of the United States Department of Justice, forward portions of the specimens or samples, taken pursuant to this chapter, to the United States Department of Justice DNA databank laboratory. The specimens and samples required by this chapter shall be taken in accordance with the procedures set forth in subdivision (i) of Section 295. The Department of Justice DNA Laboratory is authorized to analyze and upload specimens and samples collected pursuant to this section upon approval of the Director of the FBI.

(b) Paragraphs (2), (3), (4), (5), and (6) of subdivision (a) shall have retroactive application. Collection shall occur pursuant to paragraphs (2), (3), (4), (5), and (6) of subdivision (a) regardless of when the crime charged or committed became a qualifying offense pursuant to this chapter, and regardless of when the person was convicted of the qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state, or pursuant to the United States Code of Military Justice, 10 U.S.C., Sections 801 and following, or when a juvenile petition is sustained for commission of a qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state.

SEC. 2. Section 297 of the Penal Code is amended to read:

297. (a) Subject to the limitations in paragraph (3) of this subdivision, only the following laboratories are authorized to analyze crime scene samples and other forensic identification samples of known and unknown origin and to upload and compare those profiles against available state and national DNA and forensic identification databanks and databases in order to establish identity and origin of samples for forensic identification purposes pursuant to this chapter:

(1) The DNA laboratories of the Department of Justice that meet state and federal requirements, including the Federal Bureau of Investigation (FBI) Quality Assurance Standards, and that are accredited by an organization approved by the National DNA Index System (NDIS) Procedures Board.

(2) Public law enforcement crime laboratories designated by the Department of Justice that meet state and federal requirements, including the FBI Quality Assurance Standards, and that are accredited by an organization approved by the NDIS Procedures Board.

(3) Only the laboratories of the Department of Justice that meet the requirements of paragraph (1) of subdivision (a) are authorized to upload DNA profiles from arrestees and other qualifying offender samples collected pursuant to this section, Section 296, and Section 296.2.

(b) The laboratories of the Department of Justice and public law enforcement crime laboratories that meet the requirements of subdivision (a) may, subject to the laboratory's discretion, and the limitations of paragraph (3) of subdivision (a), upload to available state and national DNA and forensic identification databanks and databases qualifying DNA profiles from forensic identification samples of known and unknown origin that are generated by private forensic laboratories that meet state and federal requirements, including the FBI Quality Assurance Standards, and that are accredited by an organization approved by the NDIS Procedures Board. Prior to uploading DNA profiles generated by

a private laboratory, the public laboratory shall conduct the quality assessment and review required by the FBI Quality Assurance Standards.

(c) (1) A biological sample obtained from a suspect in a criminal investigation for the commission of any crime may be analyzed for forensic identification profiles, including DNA profiles, by the DNA Laboratory of the Department of Justice or any law enforcement crime laboratory or private forensic laboratory that meets all of the FBI Quality Assurance Standards and accreditation requirements in paragraphs (1) and (2) of subdivision (a) and then compared by the Department of Justice in and between as many cases and investigations as necessary, and searched against the forensic identification profiles, including DNA profiles, stored in the files of the Department of Justice DNA databank or database or any available databanks or databases as part of the Department of Justice DNA Database and databank Program.

(2) The law enforcement investigating agency submitting a specimen, sample, or print impression to the DNA Laboratory of the Department of Justice or law enforcement crime laboratory pursuant to this section shall inform the Department of Justice DNA Laboratory within two years whether the person remains a suspect in a criminal investigation. Upon written notification from a law enforcement agency that a person is no longer a suspect in a criminal investigation, the Department of Justice DNA Laboratory shall remove the suspect sample from its databank files and databases. However, any identification, warrant, arrest, or prosecution based upon a databank or database match shall not be invalidated or dismissed due to a failure to purge or delay in purging records.

(d) All laboratories, including the Department of Justice DNA laboratories, contributing DNA profiles for inclusion in California's DNA databank shall meet state and federal requirements, including the FBI Quality Assurance Standards and accreditation requirements, and shall be accredited by an organization approved by the National DNA Index System (NDIS) Procedures Board. Additionally, each laboratory shall submit to the Department of Justice for review the annual report required by the submitting laboratory's accrediting organization that documents the laboratory's adherence to FBI Quality Assurance Standards and the standards of the accrediting organization. The requirements of this subdivision do not preclude DNA profiles developed in California from being searched in the NDIS.

(e) Nothing in this section precludes local law enforcement DNA laboratories from maintaining local forensic databases and databanks or performing forensic identification analyses, including DNA profiling, independently from the Department of Justice DNA laboratories and Forensic Identification Data Base and databank Program.

(f) The limitation on the types of offenses set forth in subdivision (a) of Section 296 as subject to the collection and testing procedures of this chapter is for the purpose of facilitating the administration of this chapter by the Department of Justice, and shall not be considered cause for dismissing an investigation or prosecution or reversing a verdict or disposition.

(g) The detention, arrest, wardship, adjudication, or conviction of a person based upon a databank match or database information is not invalidated if it is determined that the specimens, samples, or print impressions were obtained or placed or retained in a databank or database by mistake.

SEC. 4. Section 298.1 of the Penal Code is amended to read:

298.1. (a) As of the effective date of this chapter, any person who refuses to give any or all of the following, blood specimens, saliva samples, or thumb or palm print impressions as required by this chapter, once he or she has received written notice from the Department of Justice, the Department of Corrections and Rehabilitation, any law enforcement personnel, or officer of the court that he or she is required to provide specimens, samples, and print impressions pursuant to this chapter is guilty of a misdemeanor. The refusal or failure to give any or all of the following, a blood specimen, saliva sample, or thumb or palm print impression is punishable as a separate offense by both a fine of five hundred dollars ($500) and imprisonment of up to one year in a county jail, or if the person is already imprisoned in the state prison, by sanctions for misdemeanors according to a schedule determined by the Department of Corrections and Rehabilitation.

(b) (1) Notwithstanding subdivision (a), authorized law enforcement, custodial, or corrections personnel, including peace officers as defined in Sections 830, 830.1, subdivision (d) of Section 830.2, Sections 830.5, 830.38, or 830.55, may employ reasonable force to collect blood specimens, saliva samples, or thumb or palm print impressions pursuant to this chapter from individuals who, after written or oral request, refuse to provide those specimens, samples, or thumb or palm print impressions.

(2) The withdrawal of blood shall be performed in a medically approved manner in accordance with the requirements of paragraph (2) of subdivision (b) of Section 298.

(3) The use of reasonable force as provided in this subdivision shall be carried out in a manner consistent with regulations and guidelines adopted pursuant to subdivision (c).

(c) (1) The Department of Corrections Rehabilitation and the Division of Juvenile Justice shall adopt regulations governing the use of reasonable force as provided in subdivision (b), which shall include the following:

(A) The term "use of reasonable force" shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with this chapter.

(B) The use of reasonable force shall not be authorized without the prior written authorization of the supervising officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.

(C) The use of reasonable force shall be preceded by efforts to secure voluntary compliance with this section.

(D) If the use of reasonable force includes a cell extraction, the regulations shall provide that the extraction be videotaped.

(2) The Corrections Standards Authority shall adopt guidelines governing the use of reasonable force as provided in subdivision (b) for local detention facilities, which shall include the following:

(A) The term "use of reasonable force" shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with this chapter.

(B) The use of reasonable force shall not be authorized without the prior written authorization of the supervising officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.

(C) The use of reasonable force shall be preceded by efforts to secure voluntary compliance with this section.

(D) If the use of reasonable force includes a cell extraction, the extraction shall be videotaped.

(3) The Department of Corrections and Rehabilitation, the Division of Juvenile Justice, and the Corrections Standards Authority shall report to the Legislature not later than January 1, 2005, on the use of reasonable force pursuant to this section. The report shall include, but is not limited to, the number of refusals, the number of incidents of the use of reasonable force under this section, the type of force used, the efforts undertaken to obtain voluntary compliance, if any, and whether any medical attention was needed by the prisoner or personnel as a result of force being used.

CHAPTER 171

An act to add Sections 7121.6, 7121.65, 7121.7, and 7121.8 to the Business and Professions Code, relating to contractors.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 7121.6 is added to the Business and Professions Code, to read:

7121.6. (a) An individual who meets all of the following criteria shall not perform any act regulated under this chapter for or on behalf of a licensee, other than as a bona fide nonsupervising employee:

(1) The individual was a member, officer, director, owner, or partner of a license that was revoked.

(2) The individual had knowledge of or participated in any act or omission for which the license was revoked.

(3) The individual is not eligible for reinstatement for licensure under Section 7102.

(b) An individual who meets all of the following criteria shall not perform any act regulated under this chapter for or on behalf of a licensee, other than as a bona fide nonsupervising employee:

(1) The individual furnished the qualifications for licensure, as set forth under Section 7068, and that license was revoked.

(2) The individual served in the capacity of the qualifying individual during the commission or omission of any of the acts that resulted in the revocation of the license, whether or not he or she had knowledge of or participated in those acts.

(3) The individual is not eligible for reinstatement for licensure under Section 7102.

(c) A violation of this section is a misdemeanor punishable by a fine of not less than four thousand five hundred dollars ($4,500), by imprisonment in a county jail for not less than 90 days nor more than one year, or by both the fine and imprisonment. The penalty provided by this subdivision is cumulative to the penalties available under other laws of this state.

(d) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section shall be found or an information or complaint filed within four years from the performance of any act that is prohibited under this section.

SEC. 2. Section 7121.65 is added to the Business and Professions Code, to read:

7121.65. Prior to becoming employed in any capacity by an entity that is subject to licensure under this chapter, an individual who is described in subdivision (a) or (b) of Section 7121.6 shall provide the prospective employer with written notice of the license revocation.

SEC. 3. Section 7121.7 is added to the Business and Professions Code, to read:

7121.7. (a) A qualifying individual, officer, partner, or other person named on a license shall not knowingly employ an individual who is described in subdivision (a) or (b) of Section 7121.6, except as a bona fide nonsupervising employee.

(b) A violation of this section is a misdemeanor punishable by a fine of not less than four thousand five hundred dollars ($4,500), by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment.

(c) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section shall be found or an information or complaint filed within four years from the performance of any act that is prohibited under this section.

SEC. 4. Section 7121.8 is added to the Business and Professions Code, to read:

7121.8. For purposes of this article, "bona fide nonsupervising employee" means a person who is exempt from the provisions of this chapter under Section 7053, and who does not otherwise meet the test of an independent contractor, as set forth under Section 2750.5 of the Labor Code.

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 172

An act to amend Sections 56036, 56048, 56074, 56128, 56661, 56663, 56668, 57002, and 57050 of the Government Code, to amend Sections 4730.4, 6480.1, and 32100.05 of the Health and Safety Code, to amend Sections 5527.1 and 9301.1 of the Public Resources Code, to amend

Section 15973.1 of the Public Utilities Code, and to amend Sections 21552.1, 30500.1, and 71250.1 of the Water Code, relating to local government.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 56036 of the Government Code is amended to read:

56036. (a) "District" or "special district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area, but excludes all of the following:

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

(5) A special assessment district.

(6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

(9) An air pollution control district or an air quality maintenance district.

(10) A zone of any special district, including but not limited to the following:

(A) A fire protection district.

(B) A mosquito abatement and vector control district.

(C) A public cemetery district.

(D) A recreation and park district.

(E) A community services district.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or

Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district":

(A) A unified or union high school library district.

(B) A bridge and highway district.

(C) A joint highway district.

(D) A transit or rapid transit district.

(E) A metropolitan water district.

(F) A separation of grade district.

(2) Any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district":

(A) A flood control district.

(B) A flood control and floodwater conservation district.

(C) A flood control and water conservation district.

(D) A conservation district.

(E) A water conservation district.

(F) A water replenishment district.

(G) The Orange County Water District.

(H) A California water storage district.

(I) A water agency.

(J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 2. Section 56048 of the Government Code is amended to read:

56048. (a) Except as otherwise provided in subdivision (b), "landowner" or "owner of land" means all of the following:

(1) Any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time the proponent adopts a resolution of application pursuant to Section 56654 or files a notice of intention to circulate a petition with the executive officer

pursuant to subdivision (a) of Section 56700.4, except where that person is no longer the owner. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as owner of land on the next assessment roll.

(2) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as purchaser.

(3) Any public agency owning land.

(b) "Landowner" or "owner of land" does not include a public agency which owns highways, rights-of-way, easements, waterways, or canals.

SEC. 3. Section 56074 of the Government Code is amended to read:

56074. "Service" means a class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with Section 56821) of Part 3.

SEC. 4. Section 56128 of the Government Code is amended to read:

56128. (a) Upon presentation of any application filed pursuant to Section 56127, the commission shall determine that the applicant district, agency, or authority is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), if the commission finds that the applicant is not engaged in any of the following:

(1) The distribution and sale for any purpose, other than for the purpose of resale, of water or of gas or electricity for light, heat, or power.

(2) Furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users, as defined in subdivision (b), of those services.

(3) Providing fire or police protection.

(4) The acquisition, construction, maintenance, lighting, or operation of streets and highways, street and highway improvements, or park and recreation facilities, except as an incident to the exercise of other lawful powers of the applicant.

(b) "Ultimate user" means any user or consumer other than the state, the United States, a city, a county, or a district, or any agency, department, or office of any of those entities or a public utility.

If the commission determines that any applicant district, agency, or authority enumerated in subdivision (c) of Section 56036 is not a district or special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then those provisions shall not apply to the change of organization or reorganization described in the application and proceedings for the change of organization or reorganization shall be taken under and pursuant to the principal act. If no application is made to the commission, or if the commission in passing upon an application does not determine that the applicant is not a district or special district for the purposes of Part 4 (commencing with Section

57000) or Part 5 (commencing with Section 57300), then this division shall provide the sole and exclusive authority for the initiation, conduct, and completion for a change of organization or reorganization by that district, agency, or authority and, to the extent of any inconsistency between this division and the principal act of the applicant, this division shall control.

SEC. 5. Section 56661 of the Government Code is amended to read:

56661. To the extent that the commission maintains an Internet Web site, notice of all public hearings shall be made available in electronic format on that site. The executive officer shall also give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing or transmitting by electronic mail, if available to the recipient, to all of the following persons and entities:

(a) To each affected local agency by giving notice to the legislative body and the executive officer of the agency.

(b) To the proponents, if any.

(c) To each person who has filed a written request for special notice with the executive officer.

(d) If the proposal is for any annexation or detachment, or for a reorganization providing for the formation of a new district, to each city within three miles of the exterior boundaries of the territory proposed to be annexed, detached, or formed into a new district.

(e) If the proposal is to incorporate a new city or for the formation of a district, to the affected county.

(f) If the proposal includes a change of organization or reorganization of a city or special district that provides or would provide structural fire protection services and all or part of the affected territory is a state responsibility area, as determined pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, to the Director of Forestry and Fire Protection.

(g) If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), to the Director of Conservation.

(h) To all landowners within the affected territory pursuant to the provisions of subdivision (d) of Section 56157.

(i) To all registered voters within the affected territory pursuant to the provisions of subdivision (f) of Section 56157.

SEC. 6. Section 56663 of the Government Code is amended to read:

56663. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners

of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any affected agency mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the subject agency, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a subject agency may do any of the following:

(1) Waive the requirement of mailed notice.

(2) Consent to the commission making determinations without notice and hearing.

(3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) In the case of uninhabited territory, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following apply:

(1) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization.

(2) No subject agency has submitted written opposition to a waiver of protest proceedings.

(d) In the case of inhabited city and district annexations or detachments, or both, the commission may waive protest proceedings

pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

(1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no written opposition from registered voters or landowners within the affected territory is received prior to the conclusion of the commission meeting. The written notice shall disclose to the registered voters and landowners that unless written opposition is received regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

(2) No subject agency has submitted written opposition to a waiver of protest proceedings.

SEC. 7. Section 56668 of the Government Code is amended to read:

56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency or other public agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(*l*) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(m) Any information or comments from the landowner or owners.

(n) Any information relating to existing land use designations.

SEC. 8. Section 57002 of the Government Code is amended to read:

57002. (a) Within 35 days following the adoption of the commission's resolution making determinations, the executive officer of the commission shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The hearing shall not be held prior to the expiration of the reconsideration period specified in subdivision (b) of Section 56895. The date of that hearing shall not be less than 21 days, or more than 60 days, after the date the notice is given.

(b) Where the proceeding is for the establishment of a district of limited powers as a subsidiary district of a city, upon the request of the affected district, the date of the hearing shall be at least 90 days, but no more than 135 days, from the date the notice is given.

(c) If authorized by the commission pursuant to Section 56663, a change of organization or reorganization may be approved without notice, hearing, and election.

SEC. 9 Section 57050 of the Government Code is amended to read:

57050. (a) The protest hearing on the proposal shall be held by the commission on the date and at the time specified in the notice given by the executive officer. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the notice.

(b) At the protest hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At that hearing, the commission shall hear and receive any oral or written protests, objections, or evidence that is made, presented, or filed. Any

person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

SEC. 10. Section 4730.4 of the Health and Safety Code is amended to read:

4730.4. (a) Notwithstanding Sections 4730, 4730.1 and 4730.2, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single county sanitation district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 11. Section 6480.1 of the Health and Safety Code is amended to read:

6480.1. (a) Notwithstanding Section 6480, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single sanitary district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors

of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 12. Section 32100.05 of the Health and Safety Code is amended to read:

32100.05. (a) Notwithstanding Sections 32100 and 32100.01, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single hospital district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or

reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 13. Section 5527.1 of the Public Resources Code is amended to read:

5527.1. (a) Notwithstanding Section 5527, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single regional park district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the

total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 14. Section 9301.1 of the Public Resources Code is amended to read:

9301.1. (a) Notwithstanding Section 9301, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single resource conservation district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 15. Section 15973.1 of the Public Utilities Code is amended to read:

15973.1. (a) Notwithstanding Sections 15951, 15972, and 15973, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single public utility district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section the following terms have the following meanings:

(1) "Consolidation" means consolidation, as defined in Section 56030 of the Government Code.

(2) "District" or "special district" means district or special district, as defined in Section 56036 of the Government Code.

(3) "Reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 16. Section 21552.1 of the Water Code is amended to read:

21552.1. (a) Notwithstanding Sections 21550, 21551 and 21552, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single irrigation district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of

directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 17. Section 30500.1 of the Water Code is amended to read:

30500.1. (a) Notwithstanding Section 30500, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single county water district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or

reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 18. Section 71250.1 of the Water Code is amended to read:

71250.1. (a) Notwithstanding Section 71250, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single municipal water district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board

member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

CHAPTER 173

An act to amend Section 11093.5 of the Government Code, relating to data analysis.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 11093.5 of the Government Code is amended to read:

11093.5. (a) (1) The Employment Development Department shall, in the preparation and maintenance of any statistical analyses and data, by city, either by population, fiscal, or other bases, make a separate breakdown of the Antelope Valley using the boundaries described in subdivision (b). The statistical analyses and data shall include, but is not limited to, the following: wages, consumer price index, prevailing wage, unemployment, occupational wages, and median income.

(2) The Department of Finance shall, in the preparation and maintenance of any statistical analyses and data, by city, either by population, fiscal, or other bases, make a separate breakdown of the Antelope Valley using the boundaries described in subdivision (b). The department shall provide statistical analyses and data from any additional information it receives from the cities that are affected by this section and the information it receives through the census.

(3) If the use of a tax area code is required in order to comply with paragraphs (1) and (2), an alternate method shall be used to determine the separate breakdown of the Antelope Valley. An alternate method shall include the sum of the taxable sales attributable to all of the incorporated cities in the Antelope Valley and the taxable sales attributable to the unincorporated areas of the Counties of Kern and Los Angeles that are part of the Antelope Valley.

(b) For purposes of this section, the Antelope Valley is the census tracts or ZIP Codes that are closely bounded by the base of the Tehachapi Mountains moving southwesterly to Interstate Highway 5, down the base of the San Gabriel Mountains moving southeasterly to the San Bernardino County line, follow the San Bernardino County line north, to the northern line of California City, then west to the base of the Tehachapi Mountains.

(c) The Legislature encourages the Counties of Kern and Los Angeles to voluntarily provide data for the purposes of this section.

(d) The Department of Finance and the Employment Development Department are required to implement the data reporting and analysis requirements of subdivision (a) only to the extent that data is available from the federal, state, or local sources that provide data for other jurisdictions or is provided by Kern and Los Angeles Counties. The departments are not required to develop or collect data. No data shall be reported that would violate data confidentiality agreements or rules. The departments are not required to report data that would not meet the statistical accuracy standards for the publication or data series to which they relate. The departments may report special analyses or data compilations for Antelope Valley, if reimbursement or other funding is provided.

(e) The Employment Development Department shall request authority to use data and analysis tools developed for federal programs, as needed, to provide the analyses described in subdivision (a). The department shall not be required to use federal funds or federally controlled resources for the purposes of this section, unless that use is allowed under federal rules.

CHAPTER 174

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. This act shall be known and may be cited as the Second Validating Act of 2006.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts of any kind.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County sanitation districts.

County service areas.

County transportation commissions.

County water agencies.

County water authorities.

County water districts.

County waterworks districts.

Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.

Distribution districts of any public body.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.

Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.

Water replenishment districts.

Water storage districts.

Wine grape pest and disease control districts.

Zones, improvement zones, or service zones of any public body.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. (a) All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in

connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

(b) All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 175

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. This act shall be known and may be cited as the Third Validating Act of 2006.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts of any kind.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County sanitation districts.

County service areas.

County transportation commissions.

County water agencies.

County water authorities.

County water districts.

County waterworks districts.

Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.

Distribution districts of any public body.

Drainage districts.

Fire protection districts.

Flood control and water conservation districts.

Flood control districts.

Garbage and refuse disposal districts.

Garbage disposal districts.

Geologic hazard abatement districts.

Harbor districts.

Harbor improvement districts.

Harbor, recreation, and conservation districts.

Health care authorities.

Highway districts.

Highway interchange districts.

Highway lighting districts.

Housing authorities.

Improvement districts or improvement areas of any public body.

Industrial development authorities.

Infrastructure financing districts.

Integrated financing districts.

Irrigation districts.

Joint highway districts.

Levee districts.

Library districts.

Library districts in unincorporated towns and villages.

Local agency formation commissions.

Local health care districts.

Local health districts.

Local hospital districts.

Local transportation authorities or commissions.

Maintenance districts.

Memorial districts.

Metropolitan transportation commissions.

Metropolitan water districts.

Mosquito abatement or vector control districts.

Municipal improvement districts.

Municipal utility districts.

Municipal water districts.

Nonprofit corporations.

Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.

Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or

exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. (a) All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

(b) All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or that is

pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

CHAPTER 176

An act to amend Sections 124900, 124910, 124920, and 124930 of, and to repeal Sections 124906 and 124927 of, the Health and Safety Code, relating to health care.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) In order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Are located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii) Are clinics that are able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, "uncompensated care" means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3) The department shall allocate available funds, for a three-year period, as follows:

(A) Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (4). The department shall seek input from stakeholders to discuss any adjustments to award levels that the department deems reasonable, such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). New applicants include applicants for any new site expansions by existing applicants.

(4) In assessing reported levels of uncompensated care, the department shall utilize the data available from the Office of Statewide Health Planning and Development's (OSHPD) completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data. If this data is unavailable for an existing applicant to assess reported levels of

uncompensated care, the existing applicant shall receive an allocation pursuant to subparagraph (A) of paragraph (3).

(A) The department shall utilize the most recent data available from OSHPD's completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data.

(B) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(5) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars ($35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, "frontier clinics" means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(6) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds remaining on October 30, for the prior fiscal year to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may only claim reimbursement for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a memorandum of understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case

management services are provided and that the patient is being provided comprehensive primary care as defined in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents ($71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. Each primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 2. Section 124906 of the Health and Safety Code is repealed.

SEC. 3. Section 124910 of the Health and Safety Code is amended to read:

124910. (a) (1) Each licensed primary care clinic, as specified in subdivision (a) of Section 124900, applying for funds under this article, shall demonstrate in its application that it meets all of the following conditions, at a minimum:

(A) Provides medical diagnosis and treatment.

(B) Provides medical support services of patients in all stages of illness.

(C) Provides communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provides maintenance of patients with chronic illness.

(E) Provides prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meets one or both of the following conditions:

(i) Is located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii) Is a clinic in which at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(2) Any applicant who has applied for and received a federal or state designation for serving a health professional shortage area, medically underserved area, or population shall be deemed to meet the requirements of subdivision (a) of Section 124900.

(b) Each applicant shall also demonstrate to the satisfaction of the department that the proposed services supplement, and do not supplant, those primary care services to program beneficiaries that are funded by any county, state, or federal program.

(c) Each applicant shall demonstrate that it is an active Medi-Cal provider by having a Medi-Cal provider number and diligently billing the Medi-Cal program for services rendered to Medi-Cal eligible patients during the past three months prior to the application due date. This subdivision shall not apply to clinics that are not currently Medi-Cal providers, and were funded participants pursuant to this article during the 1993–94 fiscal year.

(d) Each application shall be evaluated by the state department prior to funding to determine all of the following:

(1) The applicant shall provide its most recently audited financial statement to verify budget information.

(2) The applicant's ability to deliver basic primary care to program beneficiaries.

(3) A description of the applicant's operational quality assurance program.

(4) The applicant's use of protocols for the most common diseases in the population served under this article.

SEC. 4. Section 124920 of the Health and Safety Code is amended to read:

124920. (a) The department shall utilize existing contractual claims processing services in order to promote efficiency and to maximize use of funds.

(b) The department shall certify which primary care clinics are selected to participate in the program for each specific fiscal year, and how much in program funds each selected primary care clinic will be allocated each fiscal year.

(c) The department shall pay claims from selected primary care clinics up to each clinic's annual allocation. Once a clinic has exhausted its annual allocation, the state shall stop paying its program claims.

(d) The department may adjust any selected primary care clinic's allocation to take into account:

(1) An increase in program funds appropriated for the fiscal year.

(2) A decrease in program funds appropriated for the fiscal year.

(3) A clinic's projected inability to fully spend its allocation within the fiscal year.

(4) Surplus funds reallocated from other selected primary care clinics.

(e) The department shall notify all affected primary care clinics in writing prior to adjusting selected primary care clinics' allocations.

(f) Cessation of program payments under subdivision (e) or adjustment of selected primary care clinic's allocations under subdivision (d) shall not be subject to the Medi-Cal appeals process referenced in subdivision (g) of Section 124900.

(g) A clinic's allocation under this article shall not be reduced solely because the clinic has engaged in supplemental fundraising drives and activities, the proceeds of which have been used to defray the costs of services to the uninsured.

SEC. 5. Section 124927 of the Health and Safety Code is repealed.

SEC. 6. Section 124930 of the Health and Safety Code is amended to read:

124930. (a) For any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 104395, if the child was screened by the clinic or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program, is covered under another publicly funded program, or the services are payable under private coverage, a clinic shall, as a condition of receiving funds under this article, do all of the following:

(1) Insofar as the clinic directly provides these services for other patients, provide medically necessary followup treatment, including prescription drugs.

(2) Insofar as the clinic does not provide treatment for the condition, arrange for the treatment to be provided.

(b) (1) If any child requires treatment the clinic does not provide, the clinic shall arrange for the treatment to be provided, and the name of that provider shall be noted in the patient's medical record.

(2) The clinic shall contact the provider or the patient or his or her guardian, or both, within 30 days after the arrangement for the provision of treatment is made, and shall determine if the provider has provided appropriate care, and shall note the results in the patient's medical record.

(3) If the clinic is not able to determine, within 30 days after the arrangement for the provision of treatment is made, whether the needed treatment was provided, the clinic shall provide written notice to the county child health and disability prevention program director, and shall also provide a copy to the state director of the program.

CHAPTER 177

An act to add Section 5002.7 to the Public Resources Code, relating to parks.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 5002.7 is added to the Public Resources Code, to read:

5002.7. (a) The beach bicycle path in the County of Los Angeles, which runs 22.3 miles from its northern end at the Will Rogers State Beach to its southern end in the City of Torrance, shall be named the "Marvin Braude Bikeway" in honor of Marvin Braude, a former member of the City Council of the City of Los Angeles.

(b) Signage for the Marvin Braude Bikeway shall be placed at appropriate locations to commemorate the many conservation accomplishments of Marvin Braude, who tirelessly led efforts on behalf of the Santa Monica Mountains Conservancy, helped create the Venice Beach bikeway, and championed many other efforts to create and preserve open space and parks. Costs for the signage shall be funded by agreements made by the managing local governments and private sources.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in

no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

CHAPTER 178

An act to add Sections 19216 and 19254 to the Elections Code, relating to electronic voting systems.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 19216 is added to the Elections Code, to read:

19216. The Secretary of State shall not approve any voting system that uses paper ballots unless the paper used for the ballots is of sufficient quality that it maintains its integrity and readability throughout the retention period specified in Chapter 4 (commencing with Section 17300) of Division 17.

SEC. 2. Section 19254 is added to the Elections Code, to read:

19254. The Secretary of State shall not approve a direct recording electronic voting system unless the paper used for its voter verified paper audit trail is of sufficient quality that it maintains its integrity and readability throughout the retention period specified in Chapter 4 (commencing with Section 17300) of Division 17.

CHAPTER 179

An act to add Section 97 to, and to add and repeal Section 97.4 of, the Streets and Highways Code, and to add Section 42010 to the Vehicle Code, relating to highways.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 97 is added to the Streets and Highways Code, to read:

97. (a) In order to be designated by statute as a Safety Enhancement-Double Fine Zone, a highway or road segment shall have

experienced a significant number of traffic accidents, injuries, and fatalities within the prior three-year period, and other traffic safety measures that have been undertaken shall have not appreciably reduced the level of those incidents.

(b) The concurrence in the designation of the Department of the California Highway Patrol or local agency having traffic enforcement jurisdiction, as the case may be, shall be required prior to designation of the zone pursuant to statute, along with a resolution supporting the designation from the city, or county with respect to an unincorporated area, in which the segment is located.

(c) Each local governing body where a double fine zone is designated by statute in its jurisdiction shall, prior to the establishment of a double fine zone, do the following:

(1) Undertake a public awareness campaign to inform the public of the double fine zone designation, where it is located, its purpose, and its consequences.

(2) Where appropriate, increased traffic safety enhancements, enforcement, and other roadway safety measures shall be implemented in coordination with the establishment of the double fine zone.

(d) A Safety Enhancement-Double Fine Zone is subject to the rules and regulations adopted by the department prescribing uniform standards for warning signs to notify motorists that, pursuant to Section 42010 of the Vehicle Code, increased penalties apply for traffic violations that are committed within a Safety Enhancement-Double Fine Zone.

(e) The department or the local authority having jurisdiction over these highway and road segments shall place and maintain the warning signs identifying these segments by stating that a "Special Safety Zone Region Begins Here" and a "Special Safety Zone Ends Here." The department shall adopt rules and regulations for the administration of a Safety Enhancement-Double Fine Zone under this section.

(f) Safety Enhancement-Double Fine Zones do not increase the civil liability of the state or local authority having jurisdiction over the highway segment under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or any other provision of law relating to civil liability.

(1) Only the base fine shall be enhanced pursuant to this section.

(2) Notwithstanding any other provision of law, any additional penalty, forfeiture, or assessment imposed by any other statute shall be based on the amount of the base fine before enhancement or doubling and shall not be based on the amount of the enhanced fine imposed pursuant to this section.

(g) The projects specified as a Safety Enhancement-Double Fine Zone shall not be elevated in priority for state funding purposes.

(h) The term for a Safety Enhancement-Double Fine Zone shall be limited to four years.

(1) The Department of Transportation shall conduct an evaluation of the effectiveness of all double fine zones that will terminate the same calendar year and submit its findings in one report to the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing one year prior to the termination of the double fine zones. The report shall include a recommendation on whether the zones should be reauthorized by the Legislature.

SEC. 2. Section 97.4 is added to the Streets and Highways Code, to read:

97.4. (a) The segment of county highway known as Vasco Road, between the Interstate 580 junction in Alameda County and the Walnut Boulevard intersection in Contra Costa County, shall be designated as a Safety Enhancement-Double Fine Zone upon the approval of resolutions in that regard by the Alameda and Contra Costa County Boards of Supervisors.

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 3. Section 42010 is added to the Vehicle Code, to read:

42010. (a) For any offense specified in subdivision (b) that is committed by the driver of a vehicle within an area that has been designated as a Safety Enhancement-Double Fine Zone pursuant to Section 97 and following of the Streets and Highways Code, the fine, in a misdemeanor case, shall be double the amount otherwise prescribed, and, in an infraction case, the fine shall be one category higher than the penalty otherwise prescribed by the uniform traffic penalty schedule established pursuant to Section 40310.

(b) A violation of any of the following provisions is an offense that is subject to subdivision (a):

(1) Chapter 3 (commencing with Section 21650) of Division 11, relating to driving, overtaking, and passing.

(2) Chapter 7 (commencing with Section 22348) of Division 11, relating to speed limits.

(3) Section 23103, relating to reckless driving.

(4) Section 23104, relating to reckless driving that results in bodily injury to another.

(5) Section 23109, relating to speed contests.

(6) Section 23152, relating to driving under the influence of alcohol or a controlled substance, or a violation of Section 23103, as specified in Section 23103.5, relating to alcohol-related reckless driving.

(7) Section 23153, relating to driving under the influence of alcohol or a controlled substance, which results in bodily injury to another.

(8) Section 23220, relating to drinking while driving.

(9) Section 23221, relating to drinking in a motor vehicle while on the highway.

(10) Section 23222, relating to driving while possessing an open alcoholic beverage container.

(11) Section 23223, relating to being in a vehicle on the highway while possessing an open alcoholic beverage container.

(12) Section 23224, relating to being a driver or passenger under 21 years of age possessing an open alcoholic beverage container.

(13) Section 23225, relating to being the owner or driver of a vehicle in which there is an open alcoholic beverage container.

(14) Section 23226, relating to being a passenger in a vehicle in which there is an open alcoholic beverage container.

(c) This section applies only when traffic controls or warning signs have been placed pursuant to Section 97 or 97.1 of the Streets and Highways Code.

(d) (1) Notwithstanding any other provision of law, the enhanced fine imposed pursuant to this section shall be based only on the base fine imposed for the underlying offense and shall not include any other enhancements imposed pursuant to law.

(2) Notwithstanding any other provision of law, any additional penalty, forfeiture, or assessment imposed by any other statute shall be based on the amount of the base fine before enhancement or doubling and shall not be based on the amount of the enhanced fine imposed pursuant to this section.

CHAPTER 180

An act to amend Section 246.3 of the Penal Code, relating to BB devices.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 246.3 of the Penal Code is amended to read:

246.3. (a) Except as otherwise authorized by law, any person who willfully discharges a firearm in a grossly negligent manner which could result in injury or death to a person is guilty of a public offense and shall

be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(b) Except as otherwise authorized by law, any person who willfully discharges a BB device in a grossly negligent manner which could result in injury or death to a person is guilty of a public offense and shall be punished by imprisonment in a county jail not exceeding one year.

(c) As used in this section, "BB device" means any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action.

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 181

An act to amend Sections 19961 and 19962 of the Business and Professions Code, relating to gambling.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 19961 of the Business and Professions Code is amended to read:

19961. (a) (1) Except as provided in paragraph (2), on or after the effective date of this chapter, any amendment to any ordinance that would result in an expansion of gambling in the city, county, or city and county, shall not be valid unless the amendment is submitted for approval to the voters of the city, county, or city and county, and is approved by a majority of the electors voting thereon.

(2) Notwithstanding paragraph (1) and Section 19962, an ordinance may be amended without the approval of the electors after the effective date of this chapter to expand gambling by a change that results in an increase of less than 25 percent with respect to any of the matters set forth in paragraphs (1), (2), (3), and (5) of subdivision (b). Thereafter,

any additional expansion shall be approved by a majority of the electors voting thereon.

(b) For the purposes of this article, "expansion of gambling" means, when compared to that authorized on January 1, 1996, or under an ordinance adopted pursuant to subdivision (a) of Section 19960, whichever is the lesser number, a change that results in any of the following:

(1) An increase of 25 percent or more in the number of gambling tables in the city, county, or city and county.

(2) An increase of 25 percent or more in the number of licensed card rooms in the city, county, or city and county.

(3) An increase of 25 percent or more in the number of gambling tables that may be operated in a gambling establishment in the city, county, or city and county.

(4) The authorization of any additional form of gambling, other than card games, that may be legally played in this state, to be played at a gambling establishment in the city, county, or city and county.

(5) An increase of 25 percent or more in the hours of operation of a gambling establishment in the city, county, or city and county.

(c) The measure to expand gambling shall appear on the ballot in substantially the following form: "Shall gambling be expanded in ____ beyond that operated or authorized on January 1, 1996, by ____ (describe expansion) Yes ____ No ____."

(d) The authorization of subdivision (c) is subject to Sections 19962 and 19963 until those sections are repealed.

(e) Increasing the number of games offered in a gambling establishment does not constitute an expansion of gambling pursuant to this section.

(f) No city, county, or city and county shall amend its ordinance in a cumulative manner to increase gambling by more than 25 percent for the factors listed in subdivision (b), when compared to that authorized on January 1, 1996, without conducting an election pursuant to this section.

SEC. 2. Section 19962 of the Business and Professions Code is amended to read:

19962. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) An ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may not be amended to provide for an expansion of gambling, as defined in Section 19961, in that jurisdiction beyond that permitted on January 1, 1996.

(c) Notwithstanding any other provision of law, a city, county, or city and county may amend its ordinance regarding wagering limits.

(d) This section shall remain operative only until January 1, 2010, and as of that date is repealed.

CHAPTER 182

An act to amend Section 11135 of the Government Code, relating to discrimination.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 11135 of the Government Code is amended to read:

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) (1) As used in this section, "disability" means any mental or physical disability, as defined in Section 12926.

(2) The Legislature finds and declares that the amendments made to this act are declarative of existing law. The Legislature further finds and declares that in enacting Senate Bill 105 of the 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002), it was the intention of the Legislature to apply subdivision (d) to the California State University in the same manner that subdivisions (a), (b), and (c) of this section

already applied to the California State University, notwithstanding Section 11000. In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(2) In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of 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 Federal Code of Regulations.

(3) Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

(e) As used in this section, "sex" and "sexual orientation" have the same meanings as those terms are defined in subdivisions (p) and (q) of Section 12926.

(f) As used in this section, "race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability" includes a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

CHAPTER 183

An act to amend Section 7104 of the Public Contract Code, relating to public works.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 7104 of the Public Contract Code is amended to read:

7104. Any public works contract of a local public entity which involves digging trenches or other excavations that extend deeper than four feet below the surface shall contain a clause which provides the following:

(a) That the contractor shall promptly, and before the following conditions are disturbed, notify the local public entity, in writing, of any:

(1) Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

(b) That the local public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.

(c) That, in the event that a dispute arises between the local public entity and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The contractor shall retain any and all

rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

CHAPTER 184

An act relating to local government.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. (a) This act shall be known and may be cited as the "Sports Stadium Project Validation Procedure."

(b) As used in this section, the following definitions apply:

(1) "Sports stadium" means a stadium, arena, pavilion, or other structures or buildings designed and intended primarily for holding professional athletic events, including, but not limited to, football, soccer, baseball, and basketball.

(2) "Sports stadium project" means a project that meets all of the following:

(A) The project is proposed to be built in whole, or in part, on real property that the City and County of San Francisco owns.

(B) The project was the subject of a voter-approved measure.

(C) The project involves the proposed development, entitlement, site assembly, operation, maintenance, repair, use, management, and financing of a sports stadium and any related uses, including, without limitation, any residential, commercial, parking, open space, and other mixed-use improvements and infrastructure proposed to be developed in connection with a sports stadium.

(3) "Sports stadium project matter" means any interpretation or construction of, or findings or determination of authority, concerning the consistency of a sports stadium project with the provisions of any charter, ordinance, or declaration of policy adopted by the voters of the City and County of San Francisco and any related provisions of local law, that is made by its legislative body or any other agency, commission, or officer of the City and County of San Francisco, even if the interpretation, construction, finding, or determination is conditional or has not been given effect in any final authorization relating to the proposed sports stadium project. The interpretation, construction, finding, or determination may be set forth in a resolution of the legislative body, agency, board, or commission, or any other action provided for under

any charter, ordinance, regulation, or other law of the City and County of San Francisco or by other applicable law.

(c) (1) Notwithstanding Sections 863 and 869 of the Code of Civil Procedure, the City and County of San Francisco may, before final authorization of the proposed sports stadium project, bring an action 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 sports stadium project matter if the Board of Supervisors of the City and County of San Francisco first adopts a resolution endorsing the filing of a validation action to be brought before the final authorization of the proposed sports stadium project.

(2) The provisions of this act that permit an action to determine the validity of any sports stadium project before final authorization of the proposed sports stadium project shall not apply to a validation action of the lease revenue bonds approved by San Francisco voters on June 3, 1997, by adopting Proposition D.

(3) If final authorization of the proposed sports stadium project is obtained, nothing in this act shall prohibit an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure regarding either the lease revenue bonds authorized by Proposition D or the validity of any sports stadium project matter..

(4) While the City and County of San Francisco may bring an action authorized by this act before final authorization of the proposed sports stadium project, any discretionary authorization by the City and County of San Francisco of the proposed sports stadium project, including the construction of the sports stadium, shall remain subject to any applicable requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and the action shall not include any determination as to the compliance of the sports stadium project with the requirements of the California Environmental Quality Act, or any other matter that is not a sports stadium project matter as defined above, including, but not limited to, the Planning and Zoning Law (Title 7 (commencing with Section 65000) of the Government Code) and the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(d) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City and County of San Francisco. The facts constituting the special circumstances are:

The voters in the City and County of San Francisco approved measures for the development of a new sports stadium and complementary uses

at Candlestick Point. Before undertaking this major investment of money and resources as part of a public-private development partnership, the City and County of San Francisco needs to ensure that a proposed project at this site is viable and consistent with the voter-adopted measures. Because Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure does not permit a validation action until final authorization of a project, it is necessary for the Legislature to enact special legislation that allows for the City and County of San Francisco to bring an action before the final authorization of the proposed sports stadium project, to determine the validity of any sports stadium project matter.

CHAPTER 185

An act to add Section 11093.4 to the Government Code, relating to statistical districts.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

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

(a) World famous Hollywood attracts about 10 million tourists each year. It has turned a corner from the crime and dilapidation that plagued the area for decades and today has attracted billions of dollars in new development.

(b) Hollywood now ranks as having one of the highest hotel occupancy rates, gathering one of the highest room rates in all of Los Angeles County.

(c) Last year, Hollywood also experienced the largest year-over-year increase in hotel occupancy rates and had the highest room rate jump of all submarkets in Los Angeles County.

(d) Because of the recent spur of development, the Hollywood community now receives numerous requests each month for information on the area. Developers and entrepreneurs interested in opening businesses, civic and education leaders, and residents are continually requesting specific data on Hollywood's population, median income, employment, housing stock, general land use, tourism, and infrastructure.

(e) This critical data is either inaccessible or not collected at all. It is also often scattered among multiple city agencies and departments or not reported on a regular basis.

(f) The difficulty, or sometimes impossibility, of gathering the information in a timely manner jeopardizes bringing major development to the area, and it poses significant barriers to planning and promoting the economic and social growth of the community of Hollywood.

SEC. 2. Section 11093.4 is added to the Government Code, to read:

11093.4. (a) (1) The State Board of Equalization, Employment Development Department, Department of Industrial Relations, Department of Finance, and the Department of Transportation, shall, in the preparation and maintenance of any statistical analyses and data, by city, either by population, fiscal, or other bases, make a separate breakdown of the community of Hollywood, and shall require the City of Los Angeles to provide all necessary data at the sole expense of the City of Los Angeles.

(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 community of Hollywood.

(3) The state entities specified in paragraph (1) are required to implement the data reporting and analysis requirements of this subdivision only to the extent that data is available from federal, state, or local sources that provide data for other jurisdictions or is provided by the City of Los Angeles. Those state entities are not required to develop or collect data. No data shall be reported that would violate data confidentiality agreements or rules. The state entities are not required to report data that would not meet the statistical accuracy standards for the publication or data series to which they relate. The state entities may report special analyses or data compilations for the community of Hollywood, if reimbursement or other funding is provided.

(b) For purposes of this section, the community of Hollywood is all the portion of Los Angeles City that is described as follows:

(1) The City of Los Angeles Hollywood Community Plan Area, which was established in 1974 (Council File 72–1629). For statistical reporting purposes, the City of Los Angeles' Hollywood Community Plan Area is comprised of selected United States Census Tracts. Per the tracts established by the 2000 United States Census, the area's selected tract numbers are: 188200, 189100, 189200, 189300, 189400, 189500, 189600, 189701, 189702, 189800, 189901, 189902, 190100, 190200, 190301, 190400, 190510, 190520, 190700, 190800, 190901, 190902, 191000, 191110, 191120, 191201, 191203, 191204, 191300, 191410, 191420, 191500, 191610, 191620, 191710, 191720, 191810, 191820, 191900, 192000, 192610 (partial), 194100, 194200, 194300, 194400, 195200, 195300.

(2) At the northeastern corner, from a point commencing where the Ventura Freeway intersects with the Golden State Freeway at the Los

Angeles River and then following the Los Angeles River in an easterly and then southerly direction to its intersection with the northernmost traffic lanes of the westbound Ventura Freeway; thence west on the Ventura Freeway to its intersection with the easternmost right-of-way of the Golden State Freeway and following the easternmost right-of-way of the Golden State Freeway in a southerly direction to the point where it intersects Glendale Boulevard; thence continuing southerly on Glendale Boulevard to its intersection with Rowena Avenue; thence continuing westerly on Rowena Avenue to its intersection with Hyperion Avenue; thence continuing southwesterly on Hyperion Avenue to its intersection with Fountain Avenue; thence continuing westerly on Fountain Avenue to its intersection with Sunset Boulevard; thence continuing southeasterly on Sunset Boulevard to its intersection with Santa Monica Boulevard; thence continuing westerly on Santa Monica Boulevard to its intersection with Hoover Street; thence continuing southerly on Hoover Street to its intersection with Melrose Avenue; thence continuing westerly on Melrose Avenue to its intersection with Seward Street; thence continuing southerly on Seward Street to its intersection with Rosewood Avenue; thence continuing westerly on Rosewood Avenue to its intersection with Sweetzer Avenue; thence continuing northerly on Sweetzer Avenue to a point south of Melrose Avenue; following the common boundaries of the City of Los Angeles and the City of West Hollywood thence continuing westerly along that point to its intersection with a point west of La Cienega Boulevard; thence continuing northerly along the cities' boundaries (west of La Cienega Boulevard) to Romaine Street; thence continuing easterly on Romaine Street to its intersection with Orlando Avenue; thence continuing southerly on Orlando Avenue to its intersection with Waring Avenue; thence continuing easterly on Waring Avenue to its intersection with Sweetzer Avenue; thence continuing northerly on Sweetzer Avenue to its intersection with Willoughby Avenue; thence continuing easterly on Willoughby Avenue to just west of Crescent Heights Boulevard; thence following the City of Los Angeles and City of West Hollywood boundaries northerly to Romaine Street; thence following the cities' boundaries easterly along Romaine Street to its intersection with Hayworth Avenue; thence following the cities' boundaries southerly to their intersection with Willoughby Avenue; thence continuing easterly on Willoughby Avenue to its intersection with Gardner Street; thence following the cities' boundaries northerly to their intersection with Romaine Street; thence continuing easterly along Romaine Street and following the cities' boundaries to their intersection with La Brea Avenue; thence continuing northerly along the cities' boundaries to their intersection with Fountain Avenue; thence continuing westerly along Fountain Avenue to its intersection with

Fairfax Avenue; thence continuing northerly on Fairfax Avenue to the cities' boundaries just north of De Longpre Avenue; thence continuing westerly along the cities' boundaries to their intersection with Havenhurst Avenue; thence, at a point where Havenhurst Avenue intersects Sunset Boulevard, following the cities' boundaries westerly to just west of the point where Shoreham Drive intersects La Collina Drive and at the point where the City of Los Angeles, City of West Hollywood, and City of Beverly Hills meet; thence continuing northerly along the boundaries of the City of Los Angeles and the City of Beverly Hills to the point where Crescent Drive intersects with Wonderland Avenue; thence continuing northeasterly on Wonderland Avenue to its intersection with Laurel Pass Avenue; thence continuing easterly on Wonderland Avenue to its intersection with Laurel Canyon Boulevard; thence continuing northerly on Laurel Canyon Boulevard to its intersection with Mulholland Drive; thence continuing easterly on Mulholland Drive to its intersection with Cahuenga Boulevard; thence continuing northeasterly on Cahuenga Boulevard to its intersection with Barham Boulevard; thence continuing northerly on Barham Boulevard to its intersection with the boundary of the City of Burbank at the point where Barham Boulevard intersects the Los Angeles River; thence continuing northeasterly along the boundaries of the City of Los Angeles and the City of Burbank to the point where the City of Los Angeles, the City of Burbank, and the City of Glendale meet; thence continuing easterly along the boundaries of the City of Los Angeles and the City of Glendale until they intersect with the starting point at the Golden State Freeway.

(c) The state entities specified in paragraph (1) of subdivision (a) shall request authority to use data and analysis tools developed for federal programs, as needed, to provide the analyses described in subdivision (a). The state entities shall not be required to use federal funds or federally controlled resources for the purposes of this section unless that use is allowed under federal statute, regulation, or rule.

CHAPTER 186

An act to add Section 374.5 to the Penal Code, and to add Division 12.4 (commencing with Section 16050) to the Public Resources Code, relating to grease waste haulers.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 374.5 is added to the Penal Code, to read:

374.5. (a) It is unlawful for any grease waste hauler to do either of the following:

(1) Reinsert, deposit, dump, place, release, or discharge into a grease trap, grease interceptor, manhole, cleanout, or other sanitary sewer appurtenance any materials that the hauler has removed from the grease trap or grease interceptor, or to cause those materials to be so handled.

(2) Cause or permit to be discharged in or on any waters of the state, or discharged in or deposited where it is, or probably will be, discharged in or on any waters of the state, any materials that the hauler has removed from the grease trap or grease interceptor, or to cause those materials to be so handled.

(b) The prohibition in subdivision (a), as it pertains to reinsertion of material removed from a grease trap or grease interceptor, shall not apply to a grease waste hauler if all of the following conditions are met:

(1) The local sewer authority having jurisdiction over the pumping and disposal of the material specifically allows a registered grease waste hauler to obtain written approval for the reinsertion of decanted liquid.

(2) The local sewer authority has determined that, if reinsertion is allowed, it is feasible to enforce local discharge limits for fats, oil, and grease, if any, and other local requirements for best management or operating practices, if any.

(3) The grease waste hauler is registered pursuant to Section 19310 of the Food and Agricultural Code.

(4) The registered grease waste hauler demonstrates to the satisfaction of the local sewer authority all of the following:

(A) It will use equipment that will adequately separate the water from the grease waste and solids in the material so as to comply with applicable regulations.

(B) Its employees are adequately trained in the use of that equipment.

(5) The registered grease waste hauler demonstrates both of the following:

(A) It has informed the managerial personnel of the owner or operator of the grease trap or interceptor, in writing, that the grease waste hauler may reinsert the decanted materials, unless the owner or operator objects to the reinsertion.

(B) The owner or operator has not objected to the reinsertion of the decanted materials. If the owner or operator of the grease trap or interceptor objects to the reinsertion, no decanted material may be inserted in that grease trap or interceptor.

(c) A grease waste hauler shall not transport grease removed from a grease trap or grease interceptor in the same vehicle used for transporting other waste, including, but not limited to, yellow grease, cooking grease, recyclable cooking oil, septic waste, or fluids collected at car washes.

(d) For purposes of this section, a "grease waste hauler" is a transporter of inedible kitchen grease subject to registration requirements pursuant to Section 19310 of the Food and Agricultural Code.

(e) Any person who violates this section shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months or a fine of not more than ten thousand dollars ($10,000), or both a fine and imprisonment.

A second and subsequent conviction, shall be punishable by imprisonment in a county jail for not more than one year, or a fine of not more than twenty-five thousand dollars ($25,000), or both a fine and imprisonment.

(f) Notwithstanding Section 1463, the fines paid pursuant to this section shall be apportioned as follows:

(1) Fifty percent shall be deposited in the Environmental Enforcement and Training Account established pursuant to Section 14303, and used for purposes of Title 13 (commencing with Section 14300) of Part 4.

(2) Twenty-five percent shall be distributed pursuant to Section 1463.001.

(3) Twenty-five percent to the local health officer or other local public officer or agency that investigated the matter which lead to bringing the action.

(g) If the court finds that the violator has engaged in a practice or pattern of violation, consisting of two or more convictions, the court may bar the violating individual or business from engaging in the business of grease waste hauling for a period not to exceed five years.

(h) The court may require, in addition to any fine imposed upon conviction, that as a condition of probation and in addition to any other punishment or condition of probation, that a person convicted under this section remove, or pay the cost of removing, to the extent they are able, any materials which the convicted person dumped or caused to be dumped in violation of this section.

(i) This section does not prohibit the direct receipt of trucked grease by a publicly owned treatment works.

SEC. 2. Division 12.4 (commencing with Section 16050) is added to the Public Resources Code, to read:

DIVISION 12.4. GREASE TRAP AND GREASE INTERCEPTOR WASTE

16050. For purposes of this division, "grease waste hauler" means a transporter of inedible kitchen grease subject to the registration requirements in Section 19310 of the Food and Agricultural Code.

16051. (a) A grease waste hauler shall not remove grease from a grease trap or grease interceptor unless the hauler removes all grease, greasy liquid, water, and solids from the grease trap or grease interceptor each time of removal.

(b) Subdivision (a) does not require a grease interceptor or grease trap to be cleaned of de minimus residue that cannot be removed by normal procedures, including, but not limited to, pumping or other cleaning, or residue resulting from systems that have continuous flow.

16052. A violation of this division may only be enforced against a grease waste hauling company and shall not be enforced against an employee of the grease waste hauler.

16053. (a) A grease waste hauler who violates this division shall be subject to a civil penalty, for the first violation, in an amount that does not exceed five thousand dollars ($5,000).

(b) A grease waste hauler who violates this division, for a second or subsequent violation, shall be subject to a civil penalty in an amount that does not exceed ten thousand dollars ($10,000).

(c) A grease waste hauler who violates this division may also be subject to any further equitable remedy, as determined by the court.

(d) The civil penalties collected pursuant to this division shall be apportioned as follows:

(1) Fifty percent shall be deposited in the Environmental Enforcement and Training Account established pursuant to Section 14303 of the Penal Code, and used for purposes of Title 13 (commencing with Section 14300) of Part 4 of the Penal Code.

(2) Fifty percent to the local health officer or other local public officer or agency that investigated the matter that lead to bringing the action.

SEC. 3. Nothing in this act shall prevent punishment instead under any other criminal law. The imposition of a criminal fine, incarceration, or a civil penalty under this act may be in addition to any civil penalty imposed under any other law.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 187

An act to amend Section 71660 of the Government Code, relating to trial court employees.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 71660 of the Government Code is amended to read:

71660. Each trial court shall adopt personnel rules, subject to the obligation to meet and confer in good faith, to provide trial court employees with access to their official personnel files. The rules shall provide, at a minimum, that all of the following applies:

(a) Each trial court shall, at reasonable times and intervals, permit an employee, upon that employee's request, to inspect any personnel files that are used, or have been used, to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each trial court shall keep a copy of each employee's official personnel files at the place where the employee reports to work, or shall make the official personnel files available where the employee reports to work within a reasonable period of time after a request for the official personnel files by the employee.

(c) Records of a trial court employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory, or common law provisions, shall be excluded from the personnel files for purposes of this section.

CHAPTER 188

An act to amend Sections 1365, 1365.2.5, and 1365.5 of, and to add Section 1365.6 to, the Civil Code, relating to common interest developments.

[Approved by Governor August 28, 2006. Filed with
Secretary of State August 28, 2006.]

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

SECTION 1. Section 1365 of the Civil Code is amended to read:

1365. Unless the governing documents impose more stringent standards, the association shall prepare and distribute to all of its members the following documents:

(a) A pro forma operating budget, which shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) A summary of the association's reserves based upon the most recent review or study conducted pursuant to Section 1365.5, based only on assets held in cash or cash equivalents, which shall be printed in boldface type and include all of the following:

(A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.

(B) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components.

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.

(iii) If applicable, the amount of funds received from either a compensatory damage award or settlement to an association from any person or entity for injuries to property, real or personal, arising out of any construction or design defects, and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to clause (ii). Instead of complying with the requirements set forth in this clause, an association that is obligated to issue a review of their financial statement pursuant to subdivision (b) may include in the review a statement containing all of the information required by this clause.

(C) The percentage that the amount determined for purposes of clause (ii) of subparagraph (B) equals the amount determined for purposes of clause (i) of subparagraph (B).

(D) The current deficiency in reserve funding expressed on a per unit basis. The figure shall be calculated by subtracting the amount determined for purposes of clause (ii) of subparagraph (B) from the amount determined for purposes of clause (i) of subparagraph (B) and then dividing the result by the number of separate interests within the

association, except that if assessments vary by the size or type of ownership interest, then the association shall calculate the current deficiency in a manner that reflects the variation.

(3) A statement as to all of the following:

(A) Whether the board of directors of the association has determined to defer or not undertake repairs or replacement of any major component with a remaining life of 30 years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.

(B) Whether the board of directors of the association, consistent with the reserve funding plan adopted pursuant to subdivision (e) of Section 1365.5, has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment.

(C) The mechanism or mechanisms by which the board of directors will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms.

(D) Whether the association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain. The report shall include, but need not be limited to, reserve calculations made using the formula described in paragraph (4) of subdivision (b) of Section 1365.2.5, and may not assume a rate of return on cash reserves in excess of 2 percent above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.

The summary of the association's reserves disclosed pursuant to paragraph (2) shall not be admissible in evidence to show improper financial management of an association, provided that other relevant and competent evidence of the financial condition of the association is not made inadmissible by this provision.

Notwithstanding a contrary provision in the governing documents, a copy of the operating budget shall be annually distributed not less than 30 days nor more than 90 days prior to the beginning of the association's fiscal year.

(b) Commencing January 1, 2009, a summary of the reserve funding plan adopted by the board of directors of the association, as specified in

paragraph (4) of subdivision (e) of Section 1365.5. The summary shall include notice to members that the full reserve study plan is available upon request, and the association shall provide the full reserve plan to any member upon request.

(c) A review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars ($75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(d) Instead of the distribution of the pro forma operating budget required by subdivision (a), the board of directors may elect to distribute a summary of the pro forma operating budget to all of its members with a written notice that the pro forma operating budget is available at the business office of the association or at another suitable location within the boundaries of the development, and that copies will be provided upon request and at the expense of the association. If any member requests that a copy of the pro forma operating budget required by subdivision (a) be mailed to the member, the association shall provide the copy to the member by first-class United States mail at the expense of the association and delivered within five days. The written notice that is distributed to each of the association members shall be in at least 10-point boldface type on the front page of the summary of the budget.

(e) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members not less than 30 days nor more than 90 days immediately preceding the beginning of the association's fiscal year.

(f) (1) A summary of the association's property, general liability, earthquake, flood, and fidelity insurance policies, which shall be distributed not less than 30 days nor more than 90 days preceding the beginning of the association's fiscal year, that includes all of the following information about each policy:

(A) The name of the insurer.

(B) The type of insurance.

(C) The policy limits of the insurance.

(D) The amount of deductibles, if any.

(2) The association shall, as soon as reasonably practicable, notify its members by first-class mail if any of the policies described in paragraph (1) have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, as to any

of those policies. If the association receives any notice of nonrenewal of a policy described in paragraph (1), the association shall immediately notify its members if replacement coverage will not be in effect by the date the existing coverage will lapse.

(3) To the extent that any of the information required to be disclosed pursuant to paragraph (1) is specified in the insurance policy declaration page, the association may meet its obligation to disclose that information by making copies of that page and distributing it to all of its members.

(4) The summary distributed pursuant to paragraph (1) shall contain, in at least 10-point boldface type, the following statement: "This summary of the association's policies of insurance provides only certain information, as required by subdivision (f) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

SEC. 2. Section 1365.2.5 of the Civil Code is amended to read:

1365.2.5. (a) The disclosures required by this article with regard to an association or a property shall be summarized on the following form:

Assessment and Reserve Funding Disclosure Summary

(1) The current regular assessment per ownership interest is $_____ per ____. Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page _____ of the attached summary.

(2) Additional regular or special assessments that have already been scheduled to be imposed or charged, regardless of the purpose, if they have been approved by the board and/or members:

Date assessment will be due:	Amount per ownership interest per month or year (If assessments are variable, see note immediately below):	Purpose of the assessment:
	Total:	

Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page ____ of the attached report.

(3) Based upon the most recent reserve study and other information available to the board of directors, will currently projected reserve account balances be sufficient at the end of each year to meet the association's obligation for repair and/or replacement of major components during the next 30 years?

Yes _____ No _____

(4) If the answer to (3) is no, what additional assessments or other contributions to reserves would be necessary to ensure that sufficient reserve funds will be available each year during the next 30 years that have not yet been approved by the board or the members?

Approximate date assessment will be due:	Amount per ownership interest per month or year:
	Total:

(5) All major components are included in the reserve study and are included in its calculations.

(6) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 1365.2.5, the estimated amount required in the reserve fund at the end of the current fiscal year is $____, based in whole or in part on the last reserve study or update prepared by ____ as of ____ (month), ____

(year). The projected reserve fund cash balance at the end of the current fiscal year is $____, resulting in reserves being ____ percent funded at this date. If an alternate, but generally accepted, method of calculation is also used, the required reserve amount is $____. (See attached explanation)

(7) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 1365.2.5 of the Civil Code, the estimated amount required in the reserve fund at the end of each of the next five budget years is $_____, and the projected reserve fund cash balance in each of those years, taking into account only assessments already approved and other known revenues, is $_____, leaving the reserve at _____ percent funding. If the reserve funding plan approved by the association is implemented, the projected reserve fund cash balance in each of those years will be $_____, leaving the reserve at _____ percent funding.

Note: The financial representations set forth in this summary are based on the best estimates of the preparer at that time. The estimates are subject to change.

(b) For the purposes of preparing a summary pursuant to this section:

(1) "Estimated remaining useful life" means the time reasonably calculated to remain before a major component will require replacement.

(2) "Major component" has the meaning used in Section 1365.5. Components with an estimated remaining useful life of more than 30 years may be included in a study as a capital asset or disregarded from the reserve calculation, so long as the decision is revealed in the reserve study report and reported in the Assessment and Reserve Funding Disclosure Summary.

(3) The form set out in subdivision (a) shall accompany each pro forma operating budget or summary thereof that is delivered pursuant to this article. The form may be supplemented or modified to clarify the information delivered, so long as the minimum information set out in subdivision (a) is provided.

(4) For the purpose of the report and summary, the amount of reserves needed to be accumulated for a component at a given time shall be computed as the current cost of replacement or repair multiplied by the number of years the component has been in service divided by the useful life of the component. This shall not be construed to require the board to fund reserves in accordance with this calculation.

SEC. 3. Section 1365.5 of the Civil Code is amended to read:

1365.5. (a) Unless the governing documents impose more stringent standards, the board of directors of the association shall do all of the following:

(1) Review a current reconciliation of the association's operating accounts on at least a quarterly basis.

(2) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis.

(3) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(4) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

(5) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis.

(b) The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of moneys from the association's reserve accounts.

(c) (1) The board of directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components that the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

(2) However, the board may authorize the temporary transfer of moneys from a reserve fund to the association's general operating fund to meet short-term cashflow requirements or other expenses, if the board has provided notice of the intent to consider the transfer in a notice of meeting, which shall be provided as specified in Section 1363.05. The notice shall include the reasons the transfer is needed, some of the options for repayment, and whether a special assessment may be considered. If the board authorizes the transfer, the board shall issue a written finding, recorded in the board's minutes, explaining the reasons that the transfer is needed, and describing when and how the moneys will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the board may, after giving the same notice required for considering a transfer, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the common interest development, temporarily delay the restoration. The board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is subject to the limitation imposed by Section 1366. The board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent

the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

(d) When the decision is made to use reserve funds or to temporarily transfer moneys from the reserve fund to pay for litigation, the association shall notify the members of the association of that decision in the next available mailing to all members pursuant to Section 5016 of the Corporations Code, and of the availability of an accounting of those expenses. Unless the governing documents impose more stringent standards, the association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by members of the association at the association's office.

(e) At least once every three years, the board of directors shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.

The study required by this subdivision shall at a minimum include:

(1) Identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

(5) A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and replacement of all major components with an expected remaining life of 30 years or less, not including those components that the board has determined will not be replaced or repaired. The plan shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan. The plan shall be

adopted by the board of directors at an open meeting before the membership of the association as described in Section 1363.05. If the board of directors determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the board that is consistent with the procedure described in Section 1366.

(f) As used in this section, "reserve accounts" means both of the following:

(1) Moneys that the association's board of directors has identified for use to defray the future repair or replacement of, or additions to, those major components that the association is obligated to maintain.

(2) The funds received, and not yet expended or disposed of, from either a compensatory damage award or settlement to an association from any person or entity for injuries to property, real or personal, arising from any construction or design defects. These funds shall be separately itemized from funds described in paragraph (1).

(g) As used in this section, "reserve account requirements" means the estimated funds that the association's board of directors has determined are required to be available at a specified point in time to repair, replace, or restore those major components that the association is obligated to maintain.

(h) This section does not apply to an association that does not have a "common area" as defined in Section 1351.

SEC. 4. Section 1365.6 is added to the Civil Code, to read:

1365.6. Notwithstanding any other law, and regardless of whether an association is a corporation, as defined in Section 162 of the Corporations Code, the provisions of Section 310 of the Corporations Code shall apply to any contract or other transaction authorized, approved, or ratified by the board or a committee of the board.

CHAPTER 189

An act to add Section 22507.1 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 22507.1 is added to the Vehicle Code, to read:

22507.1. (a) A local authority may, by ordinance or resolution, designate certain streets or portions of streets for the exclusive parking

privilege of motor vehicles participating in a car share vehicle program or ridesharing program. The ordinance or resolution shall establish the criteria for a public or private company or organization to participate in the program, and may limit the types of motor vehicles that may be included in the program. Under the car share vehicle program a car share vehicle or ridesharing vehicle shall be assigned a permit by the local authority that allows that vehicle to park in the exclusive designated parking areas.

(b) The ordinance or resolution described in subdivision (a) does not apply until signs or markings giving adequate notice thereof have been placed.

(c) A local ordinance or resolution adopted pursuant to subdivision (a) may contain provisions that are reasonable and necessary to ensure the effectiveness of a car share vehicle program or ridesharing program.

(d) For purposes of this section, a "car share vehicle" is a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.

CHAPTER 190

An act to add Section 1142.1 to the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 1142.1 is added to the Unemployment Insurance Code, to read:

1142.1. (a) If the director finds that any employer or any employee, officer, or agent of any employer, in submitting facts concerning the termination of a claimant's employment, where the claimant was performing services for an educational institution, as described in Section 1253.3, willfully makes a false statement or representation or willfully fails to report a material fact regarding any week during which the services were performed, as provided in Section 1253.3, or any time granted to the claimant for professional development during his or her employment with that employer, the director shall assess a penalty against the employer of that claimant in an amount not less than two, nor more than 10, times the weekly benefit amount of that claimant.

(b) This article, Article 9 (commencing with Section 1176) of this chapter, with respect to refunds, and Chapter 7 (commencing with Section 1701) of this part, with respect to collections, shall apply to the assessments provided by this section. Penalties collected under this section shall be deposited in the Employment Development Department Contingent Fund.

CHAPTER 191

An act to amend Section 3011 of the Elections Code, relating to absentee ballots.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 3011 of the Elections Code is amended to read:

3011. (a) The identification envelope shall contain all of the following:

(1) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he or she is voting and is the person whose name appears on the envelope.

(2) The signature of the voter.

(3) The residence address of the voter as shown on the affidavit of registration.

(4) The date of signing.

(5) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(6) A warning plainly stamped or printed on it that voting twice constitutes a crime.

(7) A warning plainly stamped or printed on it that the voter must sign the envelope in his or her own handwriting in order for the ballot to be counted.

(8) A statement that the voter has neither applied, nor intends to apply, for an absent voter's ballot from any other jurisdiction for the same election.

(9) The name of the person authorized by the voter to return the absentee ballot pursuant to Section 3017.

(10) The relationship to the voter of the person authorized to return the absentee ballot.

(11) The signature of the person authorized to return the absentee ballot.

(b) Except at a primary election for partisan office, and notwithstanding any other provision of law, the absentee voter's party affiliation may not be stamped or printed on the identification envelope.

CHAPTER 192

An act to add Section 22044.5 to the Public Contract Code, relating to public projects.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 22044.5 is added to the Public Contract Code, to read:

22044.5. If the commission makes a finding, in accordance with Section 22043, on three separate occasions within a 10-year period, that the work undertaken by a public agency falls within any of the categories described in Section 22042, the commission shall notify the public agency of that finding in writing by certified mail and the public agency shall not use the bidding procedures provided by this article for five years from the date of the commission's findings.

CHAPTER 193

An act to add Section 36503.5 to the Government Code, relating to local government.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 36503.5 is added to the Government Code, to read:

36503.5. Notwithstanding any other provision of law, during the period commencing the day of a recall election pursuant to Division 11 (commencing with Section 11000) of the Elections Code, of an elective

officer of a city, and ending upon certification of the election results pursuant to Division 15 (commencing with Section 15000) of the Elections Code, or, if the recall prevails, upon qualification of the successor declared elected pursuant to Section 11385 of the Elections Code, an elective officer sought to be recalled shall not expend, or participate in any action that would commit to expend, city funds.

CHAPTER 194

An act to amend Section 66001 of the Government Code, relating to development fees.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 66001 of the Government Code is amended to read:

66001. (a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency, the local agency shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) (1) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(A) Identify the purpose to which the fee is to be put.

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

(D) Designate the approximate dates on which the funding referred to in subparagraph (C) is expected to be deposited into the appropriate account or fund.

(2) When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete public improvements identified in paragraph (2) of subdivision (a), and the public improvements remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

(g) A fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

SEC. 2. It is the intent of the Legislature in adding subdivision (g) to Section 66001 of the Government Code to codify the holdings of Bixel Associates v. City of Los Angeles (1989) 216 Cal.App.3d 1208; Rohn v. City of Visalia (1989) 214 Cal.App.3d 1463; and Shapell Industries, Inc. v. Governing Board (1991) 1 Cal.App.4th 218. It is further the intent of the Legislature in adding subdivision (g) to Section 66001 of the Government Code to reiterate the requirement that there must be a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development project upon which the fee is imposed. Subdivision (g) of Section 66001 of the Government Code shall not be interpreted as changing or in any way affecting the requirements of either subdivision (a) or (b) of that section.

CHAPTER 195

An act to add Sections 38504.1 and 38504.2 to the Vehicle Code, relating to all-terrain vehicles.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 38504.1 is added to the Vehicle Code, to read:

38504.1. (a) Neither a parent or guardian of a child who is under 14 years of age, nor an adult who is authorized by the parent or guardian to supervise that child shall grant permission to, or knowingly allow,

that child to operate an all-terrain vehicle in a manner that violates Section 38504.

(b) A person convicted of a violation of subdivision (a) is punishable as follows:

(1) For a first conviction, the court shall either impose a fine of one hundred twenty-five dollars ($125) or order the person to take or retake and complete an all-terrain vehicle safety training course pursuant to Section 38501. If ordered to take or retake and complete the safety training course, the person shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.

(2) For a second conviction, a fine of not less than one hundred twenty-five dollars ($125) nor more than two hundred fifty dollars ($250).

(3) For a third or any subsequent conviction, a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).

SEC. 2. Section 38504.2 is added to the Vehicle Code, to read:

38504.2. If a person under 14 years of age was not properly supervised or accompanied in accordance with Section 38504, and the parent or guardian of that child or the adult who was authorized by the parent or guardian to supervise or accompany that child is in violation of Section 38504.1, upon a conviction pursuant to Section 38504, the court may order that child to attend and complete the all-terrain vehicle safety training course accompanied by the person who violated Section 38504.1. If so ordered, the child under 14 years of age shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 196

An act to amend Sections 116.5, 12800, and 12830 of the Insurance Code, relating to service contracts.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 116.5 of the Insurance Code is amended to read:

116.5. An express warranty warranting a motor vehicle lubricant, treatment, fluid, or additive that covers incidental or consequential damage resulting from a failure of the lubricant, treatment, fluid, or additive, shall constitute automobile insurance, unless all of the following requirements are met:

(a) The obligor is the primary manufacturer of the product. For the purpose of this section, "manufacturer" means a person who can prove clearly and convincingly that the per unit cost of owned or leased capital goods, including the factory, used to produce the product, plus the per unit cost of nonsubcontracted labor used to produce the product, exceeds twice the per unit cost of raw materials used to produce the product. "Manufacturer" also means a person who has formulated or produced, and continuously offered in this state for more than nine years, a motor vehicle lubricant, treatment, fluid, or additive.

(b) The commissioner has issued a written determination that the obligor is a manufacturer as defined in subdivision (a). An obligor shall provide the commissioner with all information, documents, and affidavits reasonably necessary for this determination to be made. Approval by the commissioner shall be obtained prior to January 1, 2004, or prior to the issuance of a warranty subject to this section, whichever is later. If the commissioner determines that the obligor is not a manufacturer, the obligor may obtain a hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The agreement covers only damage incurred while the product was in the vehicle.

(d) The agreement is provided automatically with the product at no extra charge.

SEC. 2. Section 12800 of the Insurance Code is amended to read:

12800. The following definitions apply for purposes of this part:

(a) "Motor vehicle" means a self-propelled device operated solely or primarily upon land and may include both self-propelled motor homes or recreational vehicles, non-self-propelled camping and recreational trailers, off-road vehicles, and trailers designed to transport off-road vehicles. However, "motor vehicle" shall not include a self-propelled vehicle, or a component part of such a vehicle, that has any of the following characteristics:

(1) Has a gross vehicle weight rating of 30,000 pounds or more, and is not a recreational vehicle as defined by Section 18010 of the Health and Safety Code.

(2) Is designed to transport more than 15 passengers, including the driver.

(3) Is used in the transportation of materials considered hazardous pursuant to the Hazardous Materials Transportation Act (49 U.S.C. Sec. 5101 et seq.), as amended.

(b) "Watercraft" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, and may include any non-self-propelled trailer used to transport such watercraft upon land.

(c) "Vehicle service contract" means a contract or agreement for a separately stated consideration and for a specific duration to repair, replace, or maintain a motor vehicle or watercraft, or to indemnify for the repair, replacement, or maintenance of a motor vehicle or watercraft, necessitated by an operational or structural failure due to a defect in materials or workmanship, or due to normal wear and tear. A vehicle service contract may also provide for the incidental payment of indemnity under limited circumstances only in the form of the following additional benefits: coverage for towing, substitute transportation, emergency road service, rental car reimbursement, road hazard protection, reimbursement of deductible amounts under a manufacturer's warranty, and reimbursement for travel, lodging, or meals. "Vehicle service contract" also includes an agreement, for separately stated consideration, that promises repairs at a discount to the purchaser for any combination of parts and labor in excess of 20 percent.

(d) "Service contract administrator" or "administrator" means any person, other than an obligor, who performs or arranges, directly or indirectly, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a vehicle service contract, and who also performs or arranges, directly or indirectly, any of the following activities with respect to vehicle service contracts in which a seller located within this state is the obligor:

(1) Providing sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(e) "Purchaser" means any person who purchases a vehicle service contract from a seller.

(f) "Seller" means either of the following:

(1) With respect to motor vehicles, a dealer or lessor-retailer licensed in one of those capacities by the Department of Motor Vehicles and who sells vehicle service contracts incidental to his or her business of selling or leasing motor vehicles.

(2) With respect to watercraft, a person who sells vehicle service contracts incidental to that person's business of selling or leasing watercraft vehicles.

(g) "Obligor" means the entity legally obligated under the terms of a service contract.

SEC. 3. Section 12830 of the Insurance Code is amended to read:

12830. (a) Prior to incurring an obligation under a vehicle service contract, an obligor shall file with the commissioner, to the attention of the legal division, and receive the commissioner's approval to use, a copy of an insurance policy covering 100 percent of the obligor's vehicle service contract obligations. The policy must be issued by an insurer admitted in this state and authorized by the commissioner to issue that insurance in this state. The policy may also be issued by a risk retention group, as that term is defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3901 and following), is in good standing in its domiciliary jurisdiction, and has registered with the commissioner pursuant to Chapter 1.5 (commencing with Section 125) of Part 1 of Division 1. The insurance required by this subdivision shall be subject to the following:

(1) The insurer or risk retention group shall, at the time the policy is filed with the commissioner, and continuously thereafter, be rated "B++" or better by A. M. Best Company, Inc., maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars ($15,000,000), and annually file audited financial statements with the commissioner.

(2) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars ($15,000,000) but at least equal to ten million dollars ($10,000,000) to issue the insurance required by this paragraph if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than 3 to 1.

(3) An obligor required to maintain insurance pursuant to this paragraph who is an affiliate of a distributor of new motor vehicles licensed as such in any state prior to January 1, 2003, and continuously thereafter, is exempt from the requirement that its insurer or risk retention group satisfy the rating, surplus, and paid-in capital requirements of paragraph (1). This exemption shall apply only if the distributor sold or distributed at least 25,000 new motor vehicles to licensed dealers in the preceding five years. For the purpose of this paragraph, "affiliate" has the meaning set forth in subdivision (a) of Section 1215.

(b) An insurance policy filed with the commissioner pursuant to subdivision (a) shall state the name of the obligor. The policy shall provide that all purchasers of vehicle service contracts shall be entitled to satisfaction by the insurer of any and all obligations arising under vehicle service contracts of the named obligor, upon the existence of all of the following conditions and no others:

(1) The service contract obligor refuses or fails to satisfy an obligation arising under the vehicle service contract within 60 days of the date the purchaser submits proof of loss to the obligor.

(2) The purchaser provides written notice to the insurer that the obligor has failed to comply with an obligation under the vehicle service contract.

(3) The purchaser possesses a vehicle service contract sold after the inception and prior to any cancellation of the insurance policy required by subdivision (a), and the vehicle service contract recites the name of the obligor that is insured by the policy as the obligor of the service contract.

(c) An insurer's liability under a policy filed pursuant to subdivision (a) shall not be negated by any failure of the seller, an administrator, the obligor, or agents of any of these persons, to report the issuance of a vehicle service contract or to remit moneys to another person pursuant to a contractual agreement. The policy must state that the insurer is deemed to have received the premium for the policy upon payment by the purchaser for a vehicle service contract insured by that policy.

(d) An obligor may have on file with the commissioner only one active policy from one insurer at any time.

(e) No policy cancellation by an insurer shall be valid unless a notice of the intent to cancel the policy was filed with the commissioner 30 days prior to the effective date of the cancellation, or 10 days prior in the event that the cancellation is due to fraud, material misrepresentation, or defalcation by the obligor or its administrator, if any.

CHAPTER 197

An act to add Section 53395.85 to the Government Code, relating to infrastructure financing districts.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 53395.85 is added to the Government Code, to read:

53395.85. If a city that is a member of the Orangeline Development Authority establishes an infrastructure financing district pursuant to this chapter for the purpose of providing funding for public transit facilities, that city may provide some or all of this funding to the Orangeline Development Authority for the purposes of furthering public transit facilities within the jurisdiction of the authority, including facilities related to magnetic levitation.

SEC. 2. Due to the unique circumstances concerning funding for the Orangeline Development Authority, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution. Therefore, the special legislation contained within Section 1 of this act is necessarily applicable only to the Orangeline Development Authority.

CHAPTER 198

An act to amend Section 17506 of the Family Code, to amend Sections 4217.11, 14710, and 15814.11 of the Government Code, to amend Section 637.5 of the Penal Code, to amend Sections 247, 247.1, 490, 1013, 2883, 2885.6, 2886, 2890.2, 2892, 2892.3, 2892.5, 2894, 7000, and 7943 of, to amend and renumber Sections 215.5, 216.5, 218.5, and 224.5 of, and to add Sections 216.8 and 224.4 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor August 28, 2006. Filed with Secretary of State August 28, 2006.]

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

SECTION 1. Section 17506 of the Family Code is amended to read:

17506. (a) There is in the department a California Parent Locator Service and Central Registry that shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:

(1) The full and true name of the parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and to the extent permitted by federal law, the address, telephone number, and social security number obtained from a public utility, cable television corporation, a provider of electronic digital pager communication, or a provider of mobile telephony services that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 17604.

(B) For purposes of this subdivision, "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.

(ii) Credits.

(iii) Deductions.

(iv) Exemptions.

(v) Identity.

(vi) Liabilities.

(vii) Nature, source, and amount of income.

(viii) Net worth.

(ix) Payments.

(x) Receipts.

(xi) Address.

(xii) Social security number.

(b) Pursuant to a letter of agreement entered into between the Department of Child Support Services and the Department of Justice, the Department of Child Support Services shall assume responsibility for the California Parent Locator Service and Central Registry. The letter of agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon funding in the Budget Act, the Department of Child Support Services shall assume responsibility for leadership and staff of the California Parent Locator Service and Central Registry commencing July 1, 2003.

(2) All employees and other personnel who staff or provide support for the California Parent Locator Service and Central Registry shall, at the time of the transition, at their option, become the employees of the Department of Child Support Services at their existing or equivalent classification, salaries, and benefits.

(3) Until the department's automation system for the California Parent Locator Service and Central Registry functions is fully operational, the department shall use the automation system operated by the Department of Justice.

(4) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service.

(c) To effectuate the purposes of this section, the California Child Support Automation System, the California Parent Locator Service and Central Registry, and the Franchise Tax Board shall utilize the federal Parent Locator Service to the extent necessary, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data that will enable the Department of Child Support Services and other public agencies to carry out their powers and duties to locate parents, spouses, and former spouses, and to identify their assets, to establish parent-child relationships, and to enforce liability for child or spousal support, and for any other obligations incurred on behalf of children, and shall also provide that information to any local child support agency in fulfilling the duties prescribed in Section 270 of the Penal Code, and in Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of this code, relating to abducted, concealed, or detained children. The California Child Support Automation System shall be entitled to the same cooperation and information as the California Parent Locator Service and Central Registry to the extent allowed by law. The California Child Support Automation System shall be allowed access to criminal record information only to the extent that access is allowed by state and federal law.

(d) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the public utility, to the extent that this information is stored within the computer database of the public utility.

(2) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from cable television corporations, as defined in Section 216.4 of the Public Utilities Code, the providers of electronic digital pager communication, as defined in Section 629.51 of the Penal Code, and the providers of mobile telephony services, as defined in Section 224.4 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of mobile telephony services.

(3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and mobile telephony service customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony services for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry or the California Child Support Automation System and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services. The transmittal shall be deemed to be an administrative subpoena for customer service information.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry or the California Child Support Automation System.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.

(iv) Birth date.

(v) Last known address.

(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry and the California Child Support Automation System shall ensure that each public utility, cable television corporation, provider of electronic digital

pager communication services, and provider of mobile telephony services has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Child Support Automation System and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, providers of electronic digital pager communication, or provider of mobile telephony services is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(4) During the development of the California Child Support Automation System, the department shall determine the necessity of additional locate sources, including those specified in this section, based upon the cost-effectiveness of those sources.

(5) The public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider may charge a fee to the California Parent Locator Service and Central Registry or the California Child Support Automation System for each search performed pursuant to this subdivision to cover the actual costs to the public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider for providing this information.

(6) No public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(e) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Child Support Services, the California Child Support Automation System, the California Parent Locator Service and Central Registry, the parent locator services and central registries of other states as defined by federal statutes and regulations, a local child support agency of any county in this state, and the federal Parent Locator Service. The California Child Support Automation System shall be allowed access to criminal offender record information only to the extent that access is allowed by law.

(f) (1) At no time shall any information received by the California Parent Locator Service and Central Registry or by the California Child Support Automation System be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 17505, this section, or any other provision of law.

(2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.

(g) (1) The Department of Justice, in consultation with the Department of Child Support Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry. Upon implementation of the California Child Support Automation System, the Department of Child Support Services shall assume all responsibility for promulgating rules and regulations for use of the California Parent Locator Service and Central Registry.

(2) The Department of Child Support Services, the Public Utilities Commission, the cable television corporations, providers of electronic digital pager communication, and the providers of mobile telephony services shall develop procedures for obtaining the information described in subdivision (c) from public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services for providing that information.

(h) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars ($18) for any service it provides pursuant to this section that is not performed or funded pursuant to Section 651 and following of Title 42 of the United States Code.

(i) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 2. Section 4217.11 of the Government Code is amended to read:

4217.11. The following terms, whenever used in this chapter, have the meanings given in this section, except where the context clearly indicates otherwise:

(a) "Alternate energy equipment" means equipment for the production or conversion of energy from alternate sources as its primary fuel source, such as solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, remote natural gas of less than one billion cubic feet estimated reserves per mile from an existing gas gathering line, natural gas containing 850 or fewer British Thermal Units per standard cubic foot, or any other source of energy, the efficient use of which will reduce the use of fossil or nuclear fuels.

(b) "Cogeneration equipment" means equipment for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(c) "Conservation measures" means equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy.

(d) "Conservation services" means the electrical, thermal, or other energy savings resulting from conservation measures, which shall be treated as a supply of such energy.

(e) "Energy conservation facility" means alternate energy equipment, cogeneration equipment, or conservation measures located in public buildings or on land owned by public agencies.

(f) "Energy service contract" means a contract entered into by a public agency with any person, pursuant to which the person will provide electrical or thermal energy or conservation services to a public agency from an energy conservation facility.

(g) "Facility financing contract" means a contract entered into by a public agency with any person whereby the person provides financing for an energy conservation facility in exchange for repayment of the financing and all costs and expenses related thereto by the public agency. A facility financing contract may provide for the person with whom the public agency contracts to provide any combination of feasibility studies for, and design and construction of, all or part of the energy conservation facility in addition to the financing and other related services, and may provide for an installment sale purchase, another form of purchase, or amortized lease of the energy conservation facility by the public agency.

(h) "Facility ground lease" means a lease of all, or any portion of, land or a public building owned by, or under lease to, a public agency to a person in conjunction with an energy service contract or a facility financing contract. A facility ground lease may include, in addition to the land on which energy conservation facilities will be located, easements, rights-of-way, licenses, and rights of access, for the construction, use, or ownership by the person of the facility and all related utility lines not owned or controlled by the interconnecting utility, and offsite improvements related thereto. A facility ground lease may also include the addition or improvement of utility lines and equipment owned by the interconnecting utility which are necessary to permit interconnection between that utility and an energy conservation facility.

(i) "Person" means, but is not limited to, any individual, company, corporation, partnership, limited liability company, public agency, association, proprietorship, trust, joint venture, or other entity or group of entities.

(j) "Public agency" means the state, a county, city and county, city, district, community college district, school district, joint powers authority or other entity designated or created by a political subdivision relating

to energy development projects, and any other political subdivision or public corporation in the state.

(k) "Public building" includes any structure, building, facility, or work which a public agency is authorized to construct or use, and automobile parking lots, landscaping, and other facilities, including furnishings and equipment, incidental to the use of any structure, building, facility, or work, and also includes the site thereof, and any easements, rights-of-way appurtenant thereto, or necessary for its full use.

SEC. 3. Section 14710 of the Government Code is amended to read:

14710. As used in this article, the following terms have the following meanings:

(a) "Alternative energy equipment" means alternative energy equipment, as defined in subdivision (d) of Section 15814.11, and, in the case of fossil fuel generation, complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purposes of this article, distributed energy resources shall meet emission levels equivalent to nine ppm oxides of nitrogen, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower.

(b) "Cogeneration equipment" means equipment used for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(c) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account life-cycle costing analyses, and environmental, social, and technological factors, however, renewable technologies shall not be exempt based solely on cost considerations.

(d) "Public building" means a public building, as defined in Section 15802.

(e) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in subdivision (a) of Section 15814.12.

SEC. 4. Section 15814.11 of the Government Code is amended to read:

15814.11. For purposes of this part and Part 10.5 (commencing with Section 15750), the following terms have the following meanings:

(a) "Public building" means a public building as defined in Section 15802, and includes the cogeneration and alternative energy equipment, water conservation equipment, and conservation measures which the board is authorized by this chapter to acquire and construct. "Public Building" also means any publicly funded school that includes

kindergarten and grades 1 to 12, inclusive, or any portion of those grades, provided that publicly funded schools that include kindergarten and grades 1 to 12, inclusive, shall be authorized to finance only conservation measures and water conservation equipment as defined in subdivisions (e) and (g).

(b) "Energy service contract" means a contract entered into by the board or any other state agency with any person, including, but not limited to, an individual, company, corporation, partnership, state agency, or other entity or group of entities, pursuant to which the person will provide electrical or thermal energy or water or water conservation or energy conservation measures.

(c) "Cogeneration equipment" means equipment for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(d) "Alternative energy equipment" means equipment for the production or conversion of energy from alternative sources, including, but not limited to, solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy or water, the efficient use of which will reduce the use of fossil or nuclear fuels or water from established sources of supply.

(e) "Conservation measures" means equipment, maintenance, meters, load management techniques and equipment, or other measures to reduce energy or water use or make for a more efficient use of energy or water.

(f) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in Section 15814.12, and any school district as defined in Section 80 of the Education Code.

(g) "Water conservation equipment" means any device or modification that reduces water use from established water sources.

SEC. 5. Section 637.5 of the Penal Code is amended to read:

637.5. (a) No person who owns, controls, operates, or manages a satellite or cable television corporation, or who leases channels on a satellite or cable system shall:

(1) Use any electronic device to record, transmit, or observe any events or listen to, record, or monitor any conversations that take place inside a subscriber's residence, workplace, or place of business, without obtaining the express written consent of the subscriber. A satellite or cable television corporation may conduct electronic sweeps of subscriber households to monitor for signal quality.

(2) Provide any person with any individually identifiable information regarding any of its subscribers, including, but not limited to, the subscriber's television viewing habits, shopping choices, interests, opinions, energy uses, medical information, banking data or information,

or any other personal or private information, without the subscriber's express written consent.

(b) Individual subscriber viewing responses or other individually identifiable information derived from subscribers may be retained and used by a satellite or cable television corporation only to the extent reasonably necessary for billing purposes and internal business practices, and to monitor for unauthorized reception of services. A satellite or cable television corporation may compile, maintain, and distribute a list containing the names and addresses of its subscribers if the list contains no other individually identifiable information and if subscribers are afforded the right to elect not to be included on the list. However, a satellite or cable television corporation shall maintain adequate safeguards to ensure the physical security and confidentiality of the subscriber information.

(c) A satellite or cable television corporation shall not make individual subscriber information available to government agencies in the absence of legal compulsion, including, but not limited to, a court order or subpoena. If requests for information are made, a satellite or cable television corporation shall promptly notify the subscriber of the nature of the request and what government agency has requested the information prior to responding unless otherwise prohibited from doing so by law.

Nothing in this section shall be construed to prevent local franchising authorities from obtaining information necessary to monitor franchise compliance pursuant to franchise or license agreements. This information shall be provided so as to omit individually identifiable subscriber information whenever possible. Information obtained by local franchising authorities shall be used solely for monitoring franchise compliance and shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(d) Any individually identifiable subscriber information gathered by a satellite or cable television corporation shall be made available for subscriber examination within 30 days of receiving a request by a subscriber to examine the information on the premises of the corporation. Upon a reasonable showing by the subscriber that the information is inaccurate, a satellite or cable television corporation shall correct the information.

(e) Upon a subscriber's application for satellite or cable television service, including, but not limited to, interactive service, a satellite or cable television corporation shall provide the applicant with a separate notice in an appropriate form explaining the subscriber's right to privacy protection afforded by this section.

(f) As used in this section:

(1) "Cable television corporation" shall have the same meaning as that term is given by Section 216.4 of the Public Utilities Code.

(2) "Individually identifiable information" means any information identifying an individual or his or her use of any service provided by a satellite or cable system other than the mere fact that the individual is a satellite or cable television subscriber. "Individually identifiable information" shall not include anonymous, aggregate, or any other information that does not identify an individual subscriber of a video provider service.

(3) "Person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for or on behalf of any government, or subdivision thereof, whether federal, state, or local.

(4) "Interactive service" means any service offered by a satellite or cable television corporation involving the collection, reception, aggregation, storage, or use of electronic information transmitted from a subscriber to any other receiving point under the control of the satellite or cable television corporation, or vice versa.

(g) Nothing in this section shall be construed to limit the ability of a satellite or cable television corporation to market satellite or cable television or ancillary services to its subscribers.

(h) Any person receiving subscriber information from a satellite or cable television corporation shall be subject to the provisions of this section.

(i) Any aggrieved person may commence a civil action for damages for invasion of privacy against any satellite or cable television corporation, service provider, or person that leases a channel or channels on a satellite or cable television system that violates the provisions of this section.

(j) Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine not exceeding three thousand dollars ($3,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(k) The penalties and remedies provided by subdivisions (i) and (j) are cumulative, and shall not be construed as restricting any penalty or remedy, provisional or otherwise, provided by law for the benefit of any person, and no judgment under this section shall preclude any person from obtaining additional relief based upon the same facts.

(*l*) The provisions of this section are intended to set forth minimum state standards for protecting the privacy of subscribers to cable television services and are not intended to preempt more restrictive local standards.

SEC. 6. Section 215.5 of the Public Utilities Code is amended and renumbered to read:

216.4. "Cable television corporation" shall mean any corporation or firm which transmits television programs by cable to subscribers for a fee.

SEC. 7. Section 216.5 of the Public Utilities Code is amended and renumbered to read:

216.2. Notwithstanding Section 216, "public utility" does not include a motor carrier of property.

SEC. 8. Section 216.8 is added to the Public Utilities Code, to read:

216.8. "Commercial mobile radio service" means "commercial mobile service," as defined in subsection (d) of Section 332 of Title 47 of the United States Code and as further specified by the Federal Communications Commission in Parts 20, 22, 24, and 25 of Title 47 of the Code of Federal Regulations, and includes "mobile data service," "mobile paging service," "mobile satellite telephone service," and "mobile telephony service," as those terms are defined in Section 224.4.

SEC. 9. Section 218.5 of the Public Utilities Code is amended and renumbered to read:

216.6. "Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the facility's total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input.

SEC. 10. Section 224.5 of the Public Utilities Code is amended and renumbered to read:

224.2. "Landfill gas technology" means the process of extraction of gas or gaseous compounds from sanitary landfill areas which gas or compound was generated as a byproduct of the materials composing the landfill. For purposes of this division, real estate, fixtures, and personal property including gas extraction wells, engines and compressors for gas removal or storage, gas cleaning or rectifying equipment, equipment for the generation or production of steam, electricity, heat, or other form of energy through the use of landfill gas, and facilities for the transmission or distribution of landfill gas or other form of energy generated or produced therefrom shall not be considered an electrical, gas, or heat plant or pipeline.

SEC. 11. Section 224.4 is added to the Public Utilities Code, to read:

224.4. (a) "Mobile data service" means the delivery of nonvoice information to a mobile device and includes nonvoice information

communicated to a mobile telephony services handset, nonvoice information communicated to handheld personal digital assistant (PDA) devices and laptop computers, and mobile paging service carriers offering services on pagers and two-way messaging devices. Unless specified, "mobile data service" does not include nonvoice information communicated through a wireless local area network operating in the unlicensed radio bands, commonly known as a "Wi-Fi" network.

(b) "Mobile paging service" means the transmission of coded radio signals for the purpose of activating specific small radio receivers designed to be carried by a person and to give an aural, visual, or tactile indication when activated.

(c) "Mobile satellite telephone service" means voice communication to end users over a mobile satellite service involving the provision of commercial mobile radio service, pursuant to Parts 20 and 25 of Title 47 of the Code of Federal Regulations.

(d) "Mobile telephony service" means commercially available interconnected mobile phone services that provide access to the public switched telephone network (PSTN) via mobile communication devices employing radiowave technology to transmit calls, including cellular radiotelephone, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR). "Mobile telephony services" does not include mobile satellite telephone services or mobile data services used exclusively for the delivery of nonvoice information to a mobile device.

SEC. 12. Section 247 of the Public Utilities Code is amended to read:

247. Any provision of this part that is in conflict with the Communications Act of 1934, as amended, (47 U.S.C. Sec. 332(c)(3)) shall not apply to commercial mobile radio service to the extent of that conflict. If any provision contained in this part applicable to commercial mobile radio service, or the application thereof to any person or circumstance, is invalid as a result of federal preemption, the remainder of this part, or the application of the provision to other persons or circumstances, shall not be affected thereby.

SEC. 13. Section 247.1 of the Public Utilities Code is amended to read:

247.1. (a) The Mobile Telecommunications Sourcing Act (P.L. 106-252) was enacted for the purpose of establishing nationwide uniform sourcing rules for the imposition of state and local taxes, fees, and surcharges on mobile telecommunications services. In order to establish a single, uniform sourcing rule, the federal act partially preempted state and local law imposing taxes, fees, and surcharges on a mobile telecommunications services customer whose place of primary use is

outside of the state in which the state and local taxes, fees, or surcharges are imposed.

(b) In accordance with the Mobile Telecommunications Sourcing Act, which is incorporated herein by reference, and notwithstanding Sections 280, 431, 739.3, 879, and 2881, the surcharges or fees under these sections do not apply to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(c) For purposes of this section:

(1) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 216.8, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider, regardless of whether individual transmissions originate or terminate within the licensed service area of a home service provider.

(2) "Customer" means either (A) the person or entity that contracts with the home service provider for mobile telecommunications services, or (B) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service. This paragraph applies only for the purpose of determining the place of primary use. The term "customer" does not include either (A) a reseller of mobile telecommunications service, or (B) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(3) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(4) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(5) "Mobile telecommunications service" means commercial mobile radio service, as defined in Section 216.8.

(6) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, that must be:

(A) The residential street address or the primary business street address of the customer.

(B) Within the licensed area of the home service provider.

(7) (A) "Reseller" means a provider who purchases telecommunications services from another telecommunications service provider and then resells the services, or uses the services as a component part of, or integrates the purchased services into a mobile telecommunications service.

(B) "Reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(8) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed area.

(9) "Taxing jurisdiction" means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

SEC. 14. Section 490 of the Public Utilities Code is amended to read:

490. (a) The commission may from time to time determine and prescribe by order changes in the form of the schedules referred to in this article as it finds expedient, and may modify the requirements of any of its orders or rules in respect to any matter referred to in this article.

(b) If the rates for any commercial mobile radio service are not subject to regulation by the commission as a result of federal law, then the commission may exempt the service from any tariff-filing requirement.

SEC. 15. Section 1013 of the Public Utilities Code is amended to read:

1013. (a) The commission may by rule or order, partially or completely exempt certain telecommunications services offered by telephone and telegraph corporations from the certification requirements of Section 1001 and instead subject them to registration as the commission may determine. Telephone corporations that the commission determines have monopoly power or market power in a relevant market or markets shall have a certificate of public convenience and necessity and shall not be eligible for designation as registered telephone corporations. A telephone corporation that has been found not to have monopoly power or market power in a relevant market or markets by the commission shall be eligible for registration subject to the approval of the commission. A telephone corporation operating in this state shall either have a certificate of public convenience and necessity or be registered under this section or be a telephone corporation authorized to operate in California without a certificate of public convenience and necessity.

(b) Registered telephone corporations qualifying under this section shall maintain an active registration with the commission at all times and comply with commission rules and regulations established for registered telephone corporations qualifying under this section.

(c) The registration of registered telephone corporations qualifying under this section shall be on a form prescribed by the commission and shall contain any information the commission may by rule or order require, but shall include as a minimum the name and address of the telephone corporation's registered agent, if any, the name, address, and title of each officer or director, and a description of the telecommunications services it offers or intends to offer.

(d) Prior to designating any telephone corporation for registration status, the commission shall adopt rules to do both of the following:

(1) Verify the financial viability of the corporation.

(2) Verify that the officers of the corporation have no prior history of committing fraud on the public.

(e) The commission shall require as a precondition to registration the procurement of a performance bond sufficient to cover taxes or fees, or both, collected from customers and held for remittance and advances or deposits the telecommunications company may collect from its customers, or order that those advances or deposits be held in escrow or trust.

(f) The commission may, with or without a hearing, grant a telephone corporation registration status and an exemption from the certification requirements of Section 1001. However, upon timely application, any person entitled to be heard may file a protest on whether a telephone corporation should be eligible for registration status and the granting of an exemption from the certification requirement of Section 1001. Upon a determination that the protest has presented a prima facie case that a telephone corporation should not be granted registration status and an exemption from Section 1001, a hearing shall be held.

(g) The commission, after notice and a hearing if requested, may cancel, revoke, or suspend the registration of any telephone corporation upon any of the following grounds:

(1) The corporation does not provide the information required by this article.

(2) The corporation fails to provide or maintain a performance bond.

(3) The corporation conducts any illegal telephone operations.

(4) The corporation violates any of the applicable provisions of this code or of any regulations issued thereunder.

(5) The corporation violates any order, decision, rule, regulation, direction, demand, or requirement established by the commission under this code.

(6) The corporation fails to pay any fee or fine imposed upon the utility under this code.

(7) The corporation files a false statement to the commission.

(8) The corporation knowingly defrauds a customer.

(h) As an alternative to the cancellation, revocation, or suspension of a registration, the commission, after notice and a hearing, may impose upon the holder of the registration a fine in an amount not to exceed twenty thousand dollars ($20,000) for each offense, and order reparations and restitution to customers for each offense.

(i) Every violation of this section or any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any telephone corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

(j) In construing and enforcing this section relating to penalties, the act, omission, or failure of any officer, agent, or employee of any registered telephone corporation qualifying under this section acting within the scope of his or her official duties or employment, shall in every case be the act, omission, or failure of the corporation. The commission may assess interest to commence upon the day the payment is delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

(k) Actions to enforce the decision of the commission ordering the payment of fines, reparations, or restitution under this section shall be brought in the name of the people of the State of California, in the superior court of the county, or city and county, in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides or in which the commission has offices. The enforcement of a commission decision or order under this section shall be commenced and prosecuted to final judgment by the attorney of the commission.

(*l*) The provisions of this section do not apply to commercial mobile radio service.

SEC. 16. Section 2883 of the Public Utilities Code is amended to read:

2883. (a) All local telephone corporations, excluding providers of mobile telephony service and mobile satellite telephone service, as defined in Section 224.4, shall, to the extent permitted by existing technology or facilities, provide every existing and newly installed residential telephone connection with access to "911" emergency service regardless of whether an account has been established.

(b) The commission shall prohibit any corporation from terminating access to the services described in subdivision (a) for nonpayment of

any delinquent account or indebtedness owed by the subscriber to the telephone corporation. A subscriber and a telephone corporation may arrange payment schedules to regain full service.

(c) The commission shall require telephone corporations to inform subscribers of the availability of the services described in subdivision (a) in a manner determined by the commission.

(d) This section shall not be construed to relieve any person of an obligation to pay a debt owed to a telephone corporation.

(e) Nothing in this section shall require a local telephone corporation to provide "911" access pursuant to this section if doing so would preclude providing service to subscribers of residential telephone service.

SEC. 17. Section 2885.6 of the Public Utilities Code is amended to read:

2885.6. (a) The commission shall require mobile telephony service, as defined in Section 224.4, carriers to provide the commission, within six months of the effective date of the act that adds this section, and thereafter as requested by the commission, with information, as specified by the commission, concerning service quality and customer complaints.

(b) In addition to any other sanctions available, the commission shall have the authority to assess any and all of the following specific penalties for mobile telephony carrier noncompliance with commission rules, practices, and procedures respecting the filing of required periodic information and reports to the commission:

(1) The revocation or suspension, on an expedited basis, of temporary tariffing authority granted the carrier.

(2) The revocation or suspension, on an expedited basis, of other rate flexibility or promotional program authority granted the carrier.

SEC. 18. Section 2886 of the Public Utilities Code is amended to read:

2886. (a) The commission shall require every telephone corporation furnishing mobile telephony service, as defined in Section 224.4, to establish a pricing system made available to subscribers that shall distinguish on the billing invoice charges to a subscriber for calls not completed from any other service charge on the billing invoice.

(b) The commission shall require that those calls which are not completed shall not be charged more than 50 percent of the charge established for completed subscriber initiated calls.

(c) For purposes of this section, a call is not completed when it originates from the mobile telephony service handset and any of the following occurs:

(1) The terminating line is busy and the originator receives a busy signal.

(2) The terminating line does not answer and the originator receives an audible ring.

(3) No radios are available and the originator receives a reorder signal.

(4) The mobile telephony switching office cannot connect the call to the public network and the originator receives a reorder signal.

(5) The public network cannot complete the call to the terminating number and the originator receives a reorder signal.

SEC. 19. Section 2890.2 of the Public Utilities Code is amended to read:

2890.2. (a) A provider of mobile telephony services, as defined in Section 224.4, shall provide subscribers with a means by which a subscriber can obtain reasonably current and available information, as determined by the provider, on the subscriber's calling plan or plans and service usage, including roaming usage and charges.

(b) On or before January 1, 2007, a provider of mobile telephony services shall provide subscribers with a means by which a subscriber can obtain reasonably current and available information, as determined by the provider, on the subscriber's text messaging and Internet usage and charges.

(c) Each provider of mobile telephony services shall inform subscribers at the time service is established of the availability of the information described in subdivisions (a) and (b) and how it may be obtained.

SEC. 20. Section 2892 of the Public Utilities Code is amended to read:

2892. (a) A provider of commercial mobile radio service, as defined in Section 216.8, shall provide access for end users of that service to the local emergency telephone systems described in the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code). "911" shall be the primary access number for those emergency systems. A provider of commercial mobile radio service, in accordance with all applicable Federal Communication Commission orders, shall transmit all "911" calls from technologically compatible commercial mobile radio service communication devices without requiring user validation or any similar procedure. A provider of commercial mobile radio service may not charge any airtime, access, or similar usage charge for any "911" call placed from a commercial mobile radio service telecommunications device to a local emergency telephone system.

(b) A "911" call from a commercial mobile radio service telecommunications device may be routed to a public safety answering

point other than the Department of the California Highway Patrol only if the alternate routing meets all of the following requirements:

(1) The "911" call originates from a location other than from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol.

(2) The alternate routing is economically and technologically feasible.

(3) The alternate routing will benefit public safety and reduce burdens on dispatchers for the Department of the California Highway Patrol.

(4) The Department of the California Highway Patrol, the Department of General Services, and the proposed alternate public safety answering point, in consultation with the wireless industry, providers of "911" selective routing service, and local law enforcement officials, determine that it is in the best interest of the public and will provide more effective emergency service to the public to route "911" calls that do not originate from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol to another public safety answering point.

SEC. 21. Section 2892.3 of the Public Utilities Code is amended to read:

2892.3. (a) The commission shall require providers of mobile telephony service, as defined in Section 224.4, to report to the commission, as specified by the commission, on activities associated with customer fraud.

(b) Each report shall include a description of the types of fraud occurring, the amount of revenues that have been uncollectible because of fraud, and the actions undertaken by the mobile telephony service provider to combat fraud.

(c) The commission shall require mobile telephony service providers to provide their subscribers with a notice, to be reviewed by the commission, warning subscribers about problems associated with fraud, and informing them about ways to protect against fraud.

SEC. 22. Section 2892.5 of the Public Utilities Code is amended to read:

2892.5. (a) As used in this section "public safety agency" means a "public safety agency" as defined in Section 53102 of the Government Code.

(b) A provider of commercial mobile radio service, as defined in Section 216.8, may enter into a contract with a public safety agency to give the transmissions of public safety agency end users of that service priority over the transmissions of other persons or entities. The contract shall comply with applicable federal law.

SEC. 23. Section 2894 of the Public Utilities Code is amended to read:

2894. (a) Notwithstanding subdivision (e) of Section 2891, the disclosure of any information by an interexchange telephone corporation, a local exchange telephone corporation, or a provider of commercial mobile radio service, as defined in Section 216.8, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against any civil action brought under this chapter or any other law, including, but not limited to, Chapter 1.5 (commencing with Section 630) of Part 1 of Title 15 of the Penal Code, for the wrongful disclosure of that information.

(b) As used in this section the following terms have the following meanings:

(1) "Interexchange telephone corporation" means a telephone corporation that is a long-distance carrier.

(2) "Local exchange telephone corporation" means a telephone corporation that provides local exchange services.

SEC. 24. Section 7000 of the Public Utilities Code is amended to read:

7000. (a) For purposes of this chapter, a utility shall mean all of the following:

(1) An electric corporation, as defined in Section 218.

(2) A water corporation, as defined in Section 241.

(3) A telephone corporation, as defined in Section 234.

(4) A telecommunications carrier, as defined in Section 153 of Title 47 of the United States Code.

(5) A gas corporation, as defined in Section 222.

(6) A local publicly owned electric utility, as defined in Section 9604, and a publicly owned gas utility.

(7) A special district that owns or operates utilities.

(b) This chapter shall also apply to the following entities:

(1) A cable television corporation, as defined in Section 216.4.

(2) A cable operator, as defined in Section 522 of Title 47 of the United States Code.

SEC. 25. Section 7943 of the Public Utilities Code is amended to read:

7943. (a) It is the intent of the Legislature that when the commission has no reasonable alternative other than to create a new area code, that the commission do so in a way that creates the least inconvenience for customers.

(b) The commission shall request that the Federal Communications Commission grant authority for the commission to order telephone corporations to assign telephone numbers dedicated to mobile telephony service and mobile data service, as defined in Section 224.4, to a separate area code and to permit seven digit dialing within that technology-specific area code and the underlying preexisting area code or codes.

(c) Before approving any new area code, the commission shall first perform a telephone utilization study and implement all reasonable telephone number conservation measures.

(d) If the commission receives the grant of authority set forth in subdivision (b) and determines that further area code relief is needed, the commission shall exercise the authority granted to it in subdivision (b) unless it finds at least one of the following:

(1) Exercising the authority granted by subdivision (b) would be more disruptive to the customers where area code relief has been determined to be necessary.

(2) Exercising the authority granted by subdivision (b) will not adequately extend the life of the area code where relief has been determined to be necessary.

(e) The commission may not implement any authority granted by the Federal Communications Commission pursuant to subdivision (b), in a manner that impairs the ability of a customer to have number portability.

CHAPTER 199

An act to amend Section 10177 of the Business and Professions Code, relating to real estate licensees.

[Approved by Governor September 5, 2006. Filed with Secretary of State September 5, 2006.]

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

SECTION 1. The Legislature finds and declares that the public interest is served by protecting the validity and distinction of private sector special practice designations against unauthorized use, especially in the following areas:

(a) Real estate sales lease and exchange practice described in subdivisions (a) and (c) of Section 10131 of the Business and Professions Code.

(b) Mortgage finance practice described in subdivisions (d) and (e) of Section 10131 of the Business and Professions Code.

(c) Real estate rental and management-related activities described in subdivision (b) of Section 10131 of the Business and Professions Code.

SEC. 2. Section 10177 of the Business and Professions Code is amended to read:

10177. The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or any salesperson, by fraud, misrepresentation, or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(c) Knowingly authorized, directed, connived at, or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her designation or certification of special education, credential, trade organization membership, or business, or concerning any business opportunity or any land or subdivision (as defined in Chapter 1 (commencing with Section 11000) of Part 2) offered for sale.

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

(e) Willfully used the term "realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or has either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked or suspended for acts that, if done by a real estate licensee, would be

grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

(g) Demonstrated negligence or incompetence in performing any act for which he or she is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

(i) Has used his or her employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in any order granting a restricted license.

(*l*) Solicited or induced the sale, lease, or listing for sale or lease of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, ancestry, or national origin.

(m) Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) or the regulations of the Commissioner of Corporations pertaining thereto.

(o) Failed to disclose to the buyer of real property, in a transaction in which the licensee is an agent for the buyer, the nature and extent of a licensee's direct or indirect ownership interest in that real property. The direct or indirect ownership interest in the property by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee has a special relationship shall be disclosed to the buyer.

(p) Violated Article 6 (commencing with Section 10237).

If a real estate broker that is a corporation has not done any of the foregoing acts, either directly or through its employees, agents, officers, directors, or persons owning or controlling 10 percent or more of the corporation's stock, the commissioner may not deny the issuance of a real estate license to, or suspend or revoke the real estate license of, the corporation, provided that any offending officer, director, or stockholder, who has done any of the foregoing acts individually and not on behalf of the corporation, has been completely disassociated from any affiliation or ownership in the corporation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 200

An act to add Section 67362 to the Education Code, relating to postsecondary education.

[Approved by Governor September 5, 2006. Filed with Secretary of State September 5, 2006.]

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

SECTION 1. Section 67362 is added to the Education Code, to read:

67362. (a) Notwithstanding Section 78223 or any other provision of law, no student athlete enrolled at any campus of the University of California, the California State University, or the California Community Colleges may participate as a member of any intercollegiate athletic team, or as a participant in any intercollegiate athletic event, except in a manner available to the general public, if he or she, at any time after his or her enrollment as a college or university student, is prosecuted as an adult and is convicted of a violation of Section 187, 209, 210, 211, 220, 243.8, 245, 261, 262, 264.1, 286, 288, 288a, 288.5, 289, or 459 of, or is convicted of attempted murder pursuant to subdivision (a) of Section 664 of, the Penal Code.

(b) An institution to which this section applies may rely upon the declaration of a student athlete to determine his or her eligibility for

participation in intercollegiate athletics with respect to the requirements of this section. Any declaration obtained from a student athlete pursuant to this subdivision shall contain a notice advising the student that he or she may be subject to disciplinary action, including, but not limited to, suspension, dismissal, or expulsion, if the student knowingly provides false information in the declaration. An institution to which this section applies may, at the discretion of its appropriate administrators, seek independent confirmation of the truth of any and all of the statements of a student athlete taken pursuant to this subdivision.

(c) A student convicted of a violation of any of the Penal Code sections listed in subdivision (a) is eligible to participate as a member of an intercollegiate athletic team after he or she successfully completes the entire term of his or her probation or successfully completes his or her assigned prison term and parole period, if any.

(d) A student who knowingly provides a false declaration pursuant to subdivision (b) may be subject to disciplinary action under Section 66017 of the Education Code.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 201

An act to add Sections 22168 and 50511 to the Financial Code, relating to lenders.

[Approved by Governor September 5, 2006. Filed with Secretary of State September 5, 2006.]

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

SECTION 1. Section 22168 is added to the Financial Code, to read:

22168. The commissioner may, after appropriate notice and opportunity for hearing, suspend for a period not to exceed 12 months or bar a person from any position of employment with a licensee if the commissioner finds that the person has willfully used or claimed without authority a designation or certification of special education, practice, or skill that the person has not attained, or willfully held out to the public a confusingly similar designation or certification for the purpose of misleading the public regarding his or her qualifications or

experience.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set for hearing to commence within 30 days after receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to subdivision (a), the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under this division.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed finance lender and from engaging in any business activity on the premises where a licensed finance lender is conducting its business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed finance lender.

SEC. 2. Section 50511 is added to the Financial Code, to read:

50511. The commissioner may, subject to the requirements of subdivisions (b), (c), and (d) of Section 50318, suspend for a period not to exceed 12 months or bar a person from any position of employment with a licensee if the commissioner finds that the person has willfully used or claimed without authority a designation or certification of special education, practice, or skill that the person has not attained, or willfully held out to the public a confusingly similar designation or certification for the purpose of misleading the public regarding his or her qualifications or experience.

CHAPTER 202

An act to amend Sections 1632, 1923.2, and 1923.5 of the Civil Code, relating to reverse mortgages.

[Approved by Governor September 5, 2006. Filed with Secretary of State September 5, 2006.]

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

SECTION 1. Section 1632 of the Civil Code is amended to read:

1632. (a) The Legislature hereby finds and declares all of the following:

(1) This section was enacted in 1976 to increase consumer information and protections for the state's sizeable and growing Spanish-speaking population.

(2) Since 1976, the state's population has become increasingly diverse and the number of Californians who speak languages other than English as their primary language at home has increased dramatically.

(3) According to data from the United States Census of 2000, of the more than 12 million Californians who speak a language other than English in the home, approximately 4.3 million speak an Asian dialect or another language other than Spanish. The top five languages other than English most widely spoken by Californians in their homes are Spanish, Chinese, Tagalog, Vietnamese, and Korean. Together, these languages are spoken by approximately 83 percent of all Californians who speak a language other than English in their homes.

(b) Any person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, which includes a translation of every term and condition in that contract or agreement:

(1) A contract or agreement subject to the provisions of Title 2 (commencing with Section 1801) of, and Chapter 2b (commencing with Section 2981) and Chapter 2d (commencing with Section 2985.7) of Title 14 of, Part 4 of Division 3.

(2) A loan or extension of credit secured other than by real property, or unsecured, for use primarily for personal, family or household purposes.

(3) A lease, sublease, rental contract or agreement, or other term of tenancy contract or agreement, for a period of longer than one month, covering a dwelling, an apartment, or mobilehome, or other dwelling unit normally occupied as a residence.

(4) Notwithstanding paragraph (2), a loan or extension of credit for use primarily for personal, family or household purposes where the loan or extension of credit is subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with

Section 18000), or Division 9 (commencing with Section 22000) of the Financial Code.

(5) Notwithstanding paragraph (2), a reverse mortgage as described in Chapter 8 (commencing with Section 1923) of Title 4 of Part 4 of Division 3.

(6) A contract or agreement, containing a statement of fees or charges, entered into for the purpose of obtaining legal services, when the person who is engaged in business is currently licensed to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(c) Notwithstanding subdivision (b), for a loan subject to this part and to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, the delivery of a translation of the statement to the borrower required by Section 10240 of the Business and Professions Code in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated, is in compliance with subdivision (b).

(d) At the time and place where a lease, sublease, or rental contract or agreement described in subdivision (b) is executed, notice in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be provided to the lessee or tenant.

(e) Provision by a supervised financial organization of a translation of the disclosures required by Regulation M or Regulation Z, and, if applicable, Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated, prior to the execution of the contract or agreement, shall also be deemed in compliance with the requirements of subdivision (b) with regard to the original contract or agreement.

(1) "Regulation M" and "Regulation Z" mean any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System and any interpretation or approval issued by an official or employee duly authorized by the board to issue interpretations or approvals dealing with, respectively, consumer leasing or consumer lending, pursuant to the Federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).

(2) As used in this section, "supervised financial organization" means a bank, savings association as defined in Section 5102 of the Financial Code, credit union, or holding company, affiliate, or subsidiary thereof, or any person subject to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code.

(f) At the time and place where a contract or agreement described in paragraph (1) or (2) of subdivision (b) is executed, a notice in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be conspicuously displayed to the effect that the person described in subdivision (b) is required to provide a contract or agreement in the language in which the contract or agreement was negotiated, or a translation of the disclosures required by law in the language in which the contract or agreement was negotiated, as the case may be. If a person described in subdivision (b) does business at more than one location or branch, the requirements of this section shall apply only with respect to the location or branch at which the language in which the contract or agreement was negotiated is used.

(g) The term "contract" or "agreement," as used in this section, means the document creating the rights and obligations of the parties and includes any subsequent document making substantial changes in the rights and obligations of the parties. The term "contract" or "agreement" does not include any subsequent documents authorized or contemplated by the original document such as periodic statements, sales slips or invoices representing purchases made pursuant to a credit card agreement, a retail installment contract or account or other revolving sales or loan account, memoranda of purchases in an add-on sale, or refinancing of a purchase as provided by, or pursuant to, the original document.

The term "contract" or "agreement" does not include a home improvement contract as defined in Sections 7151.2 and 7159 of the Business and Professions Code, nor does it include plans, specifications, description of work to be done and materials to be used, or collateral security taken or to be taken for the retail buyer's obligation contained in a contract for the installation of goods by a contractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, if the home improvement contract or installation contract is otherwise a part of a contract described in subdivision (b).

Matters ordinarily incorporated by reference in contracts or agreements as described in paragraph (3) of subdivision (b), including, but not limited to, rules and regulations governing a tenancy and inventories of furnishings to be provided by the person described in subdivision (b), are not included in the term "contract" or "agreement."

(h) This section does not apply to any person engaged in a trade or business who negotiates primarily in a language other than English, as described by subdivision (b), if the party with whom he or she is negotiating is a buyer of goods or services, or receives a loan or extension of credit, or enters an agreement obligating himself or herself as a tenant, lessee, or sublessee, or similarly obligates himself or herself by contract

or lease, and the party negotiates the terms of the contract, lease, or other obligation through his or her own interpreter.

As used in this subdivision, "his or her own interpreter" means a person, not a minor, able to speak fluently and read with full understanding both the English language and any of the languages specified in subdivision (b) in which the contract or agreement was negotiated, and who is not employed by, or whose service is made available through, the person engaged in the trade or business.

(i) Notwithstanding subdivision (b), a translation may retain the following elements of the executed English-language contract or agreement without translation: names and titles of individuals and other persons, addresses, brand names, trade names, trademarks, registered service marks, full or abbreviated designations of the make and model of goods or services, alphanumeric codes, numerals, dollar amounts expressed in numerals, dates, and individual words or expressions having no generally accepted non-English translation. It is permissible, but not required, that this translation be signed.

(j) The terms of the contract or agreement which is executed in the English language shall determine the rights and obligations of the parties. However, the translation of the contract or the disclosures required by subdivision (e) in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be admissible in evidence only to show that no contract was entered into because of a substantial difference in the material terms and conditions of the contract and the translation.

(k) Upon a failure to comply with the provisions of this section, the person aggrieved may rescind the contract or agreement in the manner provided by this chapter. When the contract for a consumer credit sale or consumer lease which has been sold and assigned to a financial institution is rescinded pursuant to this subdivision, the consumer shall make restitution to and have restitution made by the person with whom he or she made the contract, and shall give notice of rescission to the assignee. Notwithstanding that the contract was assigned without recourse, the assignment shall be deemed rescinded and the assignor shall promptly repurchase the contract from the assignee.

SEC. 2. Section 1923.2 of the Civil Code is amended to read:

1923.2. A reverse mortgage loan shall comply with all of the following requirements:

(a) Prepayment, in whole or in part, shall be permitted without penalty at any time during the term of the reverse mortgage loan. For the purposes of this section, penalty does not include any fees, payments, or other charges that would have otherwise been due upon the reverse mortgage being due and payable.

(b) A reverse mortgage loan may provide for a fixed or adjustable interest rate or combination thereof, including compound interest, and may also provide for interest that is contingent on the value of the property upon execution of the loan or at maturity, or on changes in value between closing and maturity.

(c) A reverse mortgage may include costs and fees that are charged by the lender, or the lender's designee, originator, or servicer, including costs and fees charged upon execution of the loan, on a periodic basis, or upon maturity.

(d) If a reverse mortgage loan provides for periodic advances to a borrower, these advances shall not be reduced in amount or number based on any adjustment in the interest rate.

(e) A lender who fails to make loan advances as required in the loan documents, and fails to cure an actual default after notice as specified in the loan documents, shall forfeit to the borrower treble the amount wrongfully withheld plus interest at the legal rate.

(f) The reverse mortgage loan may become due and payable upon the occurrence of any one of the following events:

(1) The home securing the loan is sold or title to the home is otherwise transferred.

(2) All borrowers cease occupying the home as a principal residence, except as provided in subdivision (h).

(3) Any fixed maturity date agreed to by the lender and the borrower occurs.

(4) An event occurs which is specified in the loan documents and which jeopardizes the lender's security.

(g) Repayment of the reverse mortgage loan shall be subject to the following additional conditions:

(1) Temporary absences from the home not exceeding 60 consecutive days shall not cause the mortgage to become due and payable.

(2) Extended absences from the home exceeding 60 consecutive days, but less than one year, shall not cause the mortgage to become due and payable if the borrower has taken prior action which secures and protects the home in a manner satisfactory to the lender, as specified in the loan documents.

(3) The lender's right to collect reverse mortgage loan proceeds shall be subject to the applicable statute of limitations for written loan contracts. Notwithstanding any other provision of law, the statute of limitations shall commence on the date that the reverse mortgage loan becomes due and payable as provided in the loan agreement.

(4) The lender shall prominently disclose in the loan agreement any interest rate or other fees to be charged during the period that commences

on the date that the reverse mortgage loan becomes due and payable, and that ends when repayment in full is made.

(h) The first page of any deed of trust securing a reverse mortgage loan shall contain the following statement in 10-point boldface type: "This deed of trust secures a reverse mortgage loan."

(i) A lender shall not require an applicant for a reverse mortgage to purchase an annuity as a condition of obtaining a reverse mortgage loan. A reverse mortgage lender or a broker arranging a reverse mortgage loan shall not:

(1) Offer an annuity to the borrower prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement.

(2) Refer the borrower to anyone for the purchase of an annuity prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement.

(j) Prior to accepting a final and complete application for a reverse mortgage loan or assessing any fees, a lender shall refer the prospective borrower to a housing counseling agency approved by the United States Department of Housing and Urban Development for counseling. The counseling shall meet the standards and requirements established by the United States Department of Housing and Urban Development for reverse mortgage counseling. The lender shall provide the borrower with a list of at least five housing counseling agencies approved by the United States Department of Housing and Urban Development, including at least two agencies that can provide counseling by telephone.

(k) A lender shall not accept a final and complete application for a reverse mortgage loan from a prospective applicant or assess any fees upon a prospective applicant without first receiving a certification from the applicant or the applicant's authorized representative that the applicant has received counseling from an agency as described in subdivision (j). The certification shall be signed by the borrower and the agency counselor, and shall include the date of the counseling and the name, address, and telephone number of both the counselor and the borrower. Electronic facsimile copy of the housing counseling certification satisfies the requirements of this subdivision. The lender shall maintain the certification in an accurate, reproducible, and accessible format for the term of the reverse mortgage.

(*l*) A lender shall not make a reverse mortgage loan without first complying with, or in the case of brokered loans ensuring compliance with, the requirements of Section 1632, if applicable.

SEC. 3. Section 1923.5 of the Civil Code is amended to read:

1923.5. No reverse mortgage loan application shall be taken by a lender unless the loan applicant has received from the lender the

following plain language statement in conspicuous 16-point type or larger, advising the prospective borrower about counseling prior to obtaining the reverse mortgage loan:

IMPORTANT NOTICE
TO REVERSE MORTGAGE LOAN APPLICANT

A REVERSE MORTGAGE IS A COMPLEX FINANCIAL TRANSACTION THAT PROVIDES A MEANS OF USING THE EQUITY YOU HAVE BUILT UP IN YOUR HOME, OR THE VALUE OF YOUR HOME, AS A SOURCE OF ADDITIONAL INCOME. IF YOU DECIDE TO OBTAIN A REVERSE MORTGAGE LOAN, YOU WILL SIGN BINDING LEGAL DOCUMENTS THAT WILL HAVE IMPORTANT LEGAL AND FINANCIAL IMPLICATIONS FOR YOU AND YOUR ESTATE. IT IS THEREFORE IMPORTANT TO UNDERSTAND THE TERMS OF THE REVERSE MORTGAGE AND ITS EFFECT. BEFORE ENTERING INTO THIS TRANSACTION, YOU ARE REQUIRED TO CONSULT WITH AN INDEPENDENT LOAN COUNSELOR. A LIST OF APPROVED COUNSELORS WILL BE PROVIDED TO YOU BY THE LENDER.
YOU MAY ALSO WANT TO DISCUSS YOUR DECISION WITH FAMILY MEMBERS OR OTHERS ON WHOM YOU RELY FOR FINANCIAL ADVICE.

CHAPTER 203

An act to amend Sections 5007 and 22511.56 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. Section 5007 of the Vehicle Code is amended to read:

5007. (a) The department shall, upon application and without additional fees, issue a special license plate or plates pursuant to procedures adopted by the department to the following:

(1) A disabled person.

(2) A disabled veteran.

(3) An organization or agency involved in the transportation of disabled persons or disabled veterans if the vehicle that will have the

special license plate is used solely for the purpose of transporting those persons.

(b) The special license plates issued under subdivision (a) shall run in a regular numerical series that shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol" shall be depicted on each plate.

(c) (1) Prior to issuing a special license plate to a disabled person or disabled veteran, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician and surgeon substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of a person who has lost, or has lost use of, one or more lower extremities or one hand, for a disabled veteran, or both hands for a disabled person, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of an applicant shall be certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist. The physician and surgeon, chiropractor, or optometrist certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department.

(2) The physician and surgeon, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(d) A disabled person or disabled veteran issued a license plate or plates under this section shall, upon request, present to a peace officer, or person authorized to enforce parking laws, ordinances, or regulations, a certification form that substantiates the eligibility of the disabled person or veteran to possess the plate or plates. The certification shall be on a form prescribed by the department and contain the name of the disabled person or veteran to whom the plate or plates were issued, and the name, address, and telephone number of the medical professional described in subdivision (c) who certified the eligibility of the person or veteran for the plate or plates.

(e) The certification requirements of subdivisions (c) and (d) do not apply to an organization or agency that is issued a special license plate or plates under paragraph (3) of subdivision (a).

(f) The special license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

(g) When a vehicle subject to paragraph (3) of subdivision (a) is sold or transferred, the special license plate or plates issued to an organization or agency under paragraph (3) of subdivision (a) for that vehicle shall be immediately returned to the department.

SEC. 1.5. Section 5007 of the Vehicle Code is amended to read:

5007. (a) The department shall, upon application and without additional fees, issue a special license plate or plates pursuant to procedures adopted by the department to the following:

(1) A disabled person.

(2) A disabled veteran.

(3) An organization or agency involved in the transportation of disabled persons or disabled veterans if the vehicle that will have the special license plate is used solely for the purpose of transporting those persons.

(b) The special license plates issued under subdivision (a) shall run in a regular numerical series that shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol" shall be depicted on each plate.

(c) (1) Prior to issuing a special license plate to a disabled person or disabled veteran, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, or physician assistant, substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of a person who has lost, or has lost use of, one or more lower extremities or one hand, for a disabled veteran, or both hands for a disabled person, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of an applicant shall be certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist. The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department.

(2) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(d) A disabled person or disabled veteran issued a license plate or plates under this section shall, upon request, present to a peace officer, or person authorized to enforce parking laws, ordinances, or regulations, a certification form that substantiates the eligibility of the disabled person or veteran to possess the plate or plates. The certification shall be on a form prescribed by the department and contain the name of the disabled person or disabled veteran to whom the plate or plates were issued, and the name, address, and telephone number of the medical professional described in subdivision (c) who certified the eligibility of the person or veteran for the plate or plates.

(e) The certification requirements of subdivisions (c) and (d) do not apply to an organization or agency that is issued a special license plate or plates under paragraph (3) of subdivision (a).

(f) The special license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

(g) When a vehicle subject to paragraph (3) of subdivision (a) is sold or transferred, the special license plate or plates issued to an organization or agency under paragraph (3) of subdivision (a) for that vehicle shall be immediately returned to the department.

SEC. 2. Section 22511.56 of the Vehicle Code is amended to read:

22511.56. (a) A person using a distinguishing placard issued under Section 22511.55 or 22511.59, or a special license plate issued under Section 5007, for parking as permitted by Section 22511.5 shall, upon request of a peace officer or person authorized to enforce parking laws, ordinances, or regulations, present identification and evidence of the issuance of that placard or plate to that person, or that vehicle if the plate was issued pursuant to paragraph (3) of subdivision (a) of Section 5007.

(b) Failure to present the requested identification and evidence of the issuance of that placard or plate shall be a rebuttable presumption that the placard or plate is being misused and that the associated vehicle has been parked in violation of Section 22507.8, or has exercised a disabled person's parking privilege pursuant to Section 22511.5.

(c) In addition to any other applicable penalty for the misuse of a placard, the officer or parking enforcement person may confiscate a placard being used for parking purposes that benefit a person other than the person to whom the placard was issued by the Department of Motor Vehicles. A placard lawfully used by a person transporting a disabled person pursuant to subdivision (b) of Section 4461 may not be confiscated.

(d) In addition to any other applicable penalty for the misuse of a special license plate issued under Section 5007, a peace officer may confiscate the plate being used for parking purposes that benefit a person

other than the person to whom the plate was issued by the Department of Motor Vehicles.

(e) After verification with the Department of Motor Vehicles that the user of the placard or plate is not the registered owner of the placard or plate, the appropriate agency that confiscated the placard or plate shall notify the department of the placard or plate number and the department shall cancel the placard or plate. A placard or plate canceled by the department pursuant to this subdivision may be destroyed by the agency that confiscated the placard or plate.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 5007 of the Vehicle Code proposed by both this bill and AB 2120. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 5007 of the Vehicle Code, and (3) this bill is enacted after AB 2120, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 204

An act to add Section 1978 to the Streets and Highways Code, relating to highway signs.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. Section 1978 is added to the Streets and Highways Code, to read:

1978. (a) County officials, with respect to any state or county highway within their respective jurisdictions and upon a resolution adopted by the respective county board of supervisors, may place and maintain, or cause to be placed and maintained, at or near the county line and at county expense, signs stating or adding to their existing signs the following statement: “Where We Honor Veterans.”

(b) Signs or additions to signs described in subdivision (a) that are on a state highway shall only be placed or added to upon the approval of the Department of Transportation.

CHAPTER 205

An act to amend Sections 37220 and 38131 of the Education Code, relating to school facilities.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. Section 37220 of the Education Code is amended to read:

37220. (a) Except as otherwise provided, the public schools shall close on the following holidays:

(1) January 1.

(2) The third Monday in January or the Monday or Friday in the week in which January 15 occurs, known as "Dr. Martin Luther King, Jr. Day." On the Friday preceding which day the schools are closed, schools shall include exercises commemorating and directing attention to the history of the civil rights movement in the United States and particularly the role therein of Dr. Martin Luther King, Jr.

(3) The Monday or Friday of the week in which February 12 occurs, known as "Lincoln Day." On the day that school is in session prior to the day on which schools are closed for that purpose, all public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln.

(4) The third Monday in February, known as "Washington Day." On the Friday preceding, all public schools and educational institutions throughout the state shall hold exercises in memory of George Washington.

(5) The last Monday in May, known as "Memorial Day."

(6) July 4.

(7) The first Monday in September, known as "Labor Day."

(8) November 11, known as "Veterans Day."

(9) That Thursday in November proclaimed by the President as "Thanksgiving Day."

(10) December 25.

(11) All days appointed by the Governor for a public fast, thanksgiving, or holiday, and all special or limited holidays on which the Governor provides that the schools shall close.

(12) All days appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(13) Any other day designated as a holiday by the governing board of the school district.

(b) When any of the holidays on which the schools would be closed falls on Sunday, the public schools shall close on the Monday following.

(c) When any of the holidays on which the schools would be closed falls on Saturday, the public schools shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(d) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different from the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(e) Except for Veterans Day, as designated in paragraph (8) of subdivision (a), the governing board of a school district, by adoption of a resolution, may revise the date upon which the schools of the district close in observance of any of the holidays identified in subdivision (a).

(f) The governing board of a school district may not request a waiver of paragraph (8) of subdivision (a) from the state board.

(g) This section does not prohibit a school district from authorizing its facilities or grounds to be used in accordance with Section 38131 on those days on which the public schools are closed.

SEC. 2. Section 38131 of the Education Code is amended to read:

38131. (a) There is a civic center at each and every public school facility and grounds within the state where the citizens, parent teacher associations, Camp Fire girls, Boy Scout troops, veterans' organizations, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions that in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside. For purposes of this section, "veterans' organizations" are those groups included within the definition of that term as specified in subdivision (a) of Section 1800 of the Military and Veterans Code.

(b) The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:

(1) Public, literary, scientific, recreational, educational, or public agency meetings.

(2) The discussion of matters of general or public interest.

(3) The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization that has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (d) of Section 38134.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary schoolage.

(5) The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.

(6) Supervised recreational activities including, but not limited to, sports league activities for youths that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination.

(7) A community youth center.

(8) A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization.

(9) Other purposes deemed appropriate by the governing board.

CHAPTER 206

An act to amend Sections 1800, 1801, and 1820 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. Section 1800 of the Military and Veterans Code is amended to read:

1800. As used in Section 1801:

(a) "Veterans' organizations" means any duly congressionally recognized or chartered organization of honorably discharged members

of the Armed Forces of the United States, or any of their auxiliaries, including, but not limited to, the Air Force Sergeants Association, American Ex-Prisoners of War, American Legion, American Veterans, Armed Forces Retirees Association of California, Association of the United States Army, Blinded Veterans Association, California Association of County Veterans Service Officers, California State Commanders Veterans Council, Disabled American Veterans, Fleet Reserve Association, Jewish War Veterans, Legion of Valor, Marine Corps League, Military Officers Association of America, Military Order of the Purple Heart, National Association for Uniformed Services, Paralyzed Veterans of America, Reserve Officers Association, Retired Enlisted Association, Veterans of Foreign Wars, Vietnam Veterans of America, or WAVES National.

(b) "Poppy" means any article fashioned of cloth, paper, or other material which represents or resembles the poppy or other flower.

(c) "Badge" means any badge, rosette, lapel button, or other insignia of any veterans' organization or any imitation thereof.

(d) "Label" means any card, paper, sign, certificate, banner, or other material containing the name of or a similar name to that of any veterans' organization.

SEC. 2. Section 1801 of the Military and Veterans Code is amended to read:

1801. It is unlawful for any person to do any of the following acts:

(a) To hawk, peddle, vend, offer to sell, give away, or offer to give away any poppy, badge, or label, which appears to be, or is represented directly or indirectly as being, sponsored, endorsed, or offered by any veterans' organization, when such poppy, badge, or label is not so sponsored, endorsed, or offered by any veterans' organization.

(b) To represent in any way, directly or indirectly, that any poppy, badge, or label is sponsored, endorsed, or is being offered by a veterans' organization when it is in fact not so sponsored, endorsed, or offered by that veterans' organization.

(c) To represent in any way, directly or indirectly that any act of solicitation of the contribution of funds or property or for the purchase or sale of any merchandise or services is sponsored, endorsed, or made by or at the request of a veterans' organization when it is not in fact so sponsored, endorsed, or made by that veterans' organization.

(d) To manufacture, process, assemble or distribute, or offer for sale, any poppy, badge, or label which appears to be, or is represented directly or indirectly as being, sponsored, endorsed, or offered by any veterans' organization, when such poppy, badge, or label is not so sponsored, endorsed, or offered by any veterans' organization.

Any person, whether or not an honorably discharged member of the Armed Forces of the United States, and whether or not licensed to hawk, peddle, or vend goods, wares, or merchandise, who violates this section is guilty of a misdemeanor.

SEC. 3. Section 1820 of the Military and Veterans Code is amended to read:

1820. Any person who willfully wears or uses the badge, lapel button, rosette, or other recognized and estimable insignia of the veterans' organizations specified in subdivision (a) of Section 1800, unless he or she is entitled to wear or use it under the rules and regulations and with the express permission of the veterans' organizations specified in subdivision (a) of Section 1800, is guilty of a misdemeanor and is punishable for a first conviction by imprisonment for a term not to exceed 30 days in the county jail, or a fine not to exceed five hundred dollars ($500), except that if the person has been previously convicted of a violation of this section, that conviction shall be specified in the accusation and if found to be true or admitted by the person, a second or succeeding violation of this section is punishable by imprisonment not to exceed six months in the county jail, or a fine not to exceed one thousand dollars ($1,000), or both fine and imprisonment.

Nothing in this section shall preclude prosecution for violation of any other law.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 207

An act to amend Section 3030 of the Family Code, relating to sex offenders.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. Section 3030 of the Family Code is amended to read:

3030. (a) (1) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to be registered as a sex offender under Section 290 of the Penal Code where the victim was a minor, or if the person has been convicted under Section 273a, 273d, or 647.6 of the Penal Code, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record.

(2) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if anyone residing in the person's household is required, as a result of a felony conviction in which the victim was a minor, to register as a sex offender under Section 290 of the Penal Code, unless the court finds there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record.

(3) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under Section 290 of the Penal Code, shall be prima facie evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the prima facie evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the party seeking custody or visitation is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under Section 290 of the Penal Code.

(b) No person shall be granted custody of, or visitation with, a child if the person has been convicted under Section 261 of the Penal Code and the child was conceived as a result of that violation.

(c) No person shall be granted custody of, or unsupervised visitation with, a child if the person has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, and the victim of the murder was the other parent of the child who is the subject of the order, unless the court finds that there is no risk to the child's health, safety, and welfare, and states the reasons for its finding in writing or on the record. In making its finding, the court may consider, among other things, the following:

(1) The wishes of the child, if the child is of sufficient age and capacity to reason so as to form an intelligent preference.

(2) Credible evidence that the convicted parent was a victim of abuse, as defined in Section 6203, committed by the deceased parent. That evidence may include, but is not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of domestic abuse.

(3) Testimony of an expert witness, qualified under Section 1107 of the Evidence Code, that the convicted parent experiences intimate partner battering.

Unless and until a custody or visitation order is issued pursuant to this subdivision, no person shall permit or cause the child to visit or remain in the custody of the convicted parent without the consent of the child's custodian or legal guardian.

(d) The court may order child support that is to be paid by a person subject to subdivision (a), (b), or (c) to be paid through the local child support agency, as authorized by Section 4573 of the Family Code and Division 17 (commencing with Section 17000) of this code.

(e) The court shall not disclose, or cause to be disclosed, the custodial parent's place of residence, place of employment, or the child's school, unless the court finds that the disclosure would be in the best interest of the child.

CHAPTER 208

An act to amend Section 1596.857 of the Health and Safety Code, relating to child day care.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. Section 1596.857 of the Health and Safety Code is amended to read:

1596.857. (a) Upon presentation of identification, the responsible parent or guardian of a child receiving services in a child day care facility has the right to enter and inspect the facility without advance notice during the normal operating hours of the facility or at any time that the child is receiving services in the facility. Parents or guardians when inspecting shall be respectful of the children's routines and programmed activities. The facility shall inform parents and guardians of children

receiving services in the facility of the right of the parents and guardians to inspect the facility pursuant to this section.

(b) No child day care facility shall discriminate or retaliate against any child or parent or guardian on the basis or for the reason that the parent or guardian has exercised his or her right under this section to inspect the facility or has lodged a complaint with the department against a facility.

(c) If any child day care facility denies a parent or legal guardian the right to enter and inspect a facility or retaliates, the department shall issue the facility a warning citation. For any subsequent violation of this right, the department may impose a civil penalty upon the facility of fifty dollars ($50) per violation. The department may take any appropriate action, including license revocation.

(d) Each child day care facility shall permanently post in a facility location accessible to parents and guardians a written notice, available from the department, of the right to make an inspection pursuant to this section and the prohibition against retaliation and the right to file a complaint. In addition, this notice shall include information stating that the specified registered sex offender database is available to the public via an Internet Web site maintained by the Department of Justice as www.meganslaw.ca.gov. The department shall make this written notice available to child day care facility licensees, and shall include on this notice a statement of the right of the parents and guardians to review licensing reports of facility visits and substantiated complaints against the facility on the site of the facility, pursuant to Section 1596.859.

(e) At the time of acceptance of each child into a child day care facility after January 1, 2007, the licensee shall provide the child's parent or guardian with a copy of the Family Child Care Home Notification of Parents' Rights provided by the State Department of Social Services, which shall include information stating that the specified registered sex offender database is available to the public via an Internet Web site maintained by the Department of Justice as www.meganslaw.ca.gov.

(f) Upon delivery of the Family Child Care Home Notification of Parents' Rights required pursuant to subdivision (e) to a parent or guardian, a provider is not required to provide any additional information regarding the location and proximity of registered sex offenders who reside in the community where the child care facility or family day care home is located. The provision of the information required by this section to parents and guardians of a child in their care shall not subject the provider to any liability or cause of action against the provider by a registered sex offender identified in the database.

(g) Notwithstanding any other provision of this section, the person present who is in charge of a child day care facility may deny access to

an adult whose behavior presents a risk to children present in the facility and may deny access to noncustodial parents or guardians if so requested by the responsible parent or legal guardian.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 209

An act to add Section 20037.7 to the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve agreements pursuant to Section 3517 of the Government Code, entered into by the state employer and State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21 on June 17, 2006, that require the expenditure of funds.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations, and that require the expenditure of funds, are hereby approved for the purposes of subdivision (b) of Section 3517.6 of the Government Code:

(a) State Bargaining Unit 1, Service Employees International Union, Local 1000.

(b) State Bargaining Unit 3, Service Employees International Union, Local 1000.

(c) State Bargaining Unit 4, Service Employees International Union, Local 1000.

(d) State Bargaining Unit 11, Service Employees International Union, Local 1000.

(e) State Bargaining Unit 14, Service Employees International Union, Local 1000.

(f) State Bargaining Unit 15, Service Employees International Union, Local 1000.

(g) State Bargaining Unit 17, Service Employees International Union, Local 1000.

(h) State Bargaining Unit 20, Service Employees International Union, Local 1000.

(i) State Bargaining Unit 21, Service Employees International Union, Local 1000.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memoranda of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memoranda of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding included in Section 2 that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20037.7 is added to the Government Code, to read:

20037.7. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 6. The sum of three hundred forty-three million six hundred thirty-five thousand dollars ($343,635,000) is hereby appropriated for expenditure in the 2006–07 fiscal year in augmentation of, and for the purpose of state employee compensations as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2006 in accordance to the following schedule:

(a) One hundred thirty-seven million one hundred eighteen thousand dollars ($137,118,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) One hundred thirty-two million one hundred seventy-one thousand dollars ($132,171,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Seventy-four million three hundred forty-six thousand dollars ($74,346,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2005–06 fiscal years and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 210

An act to amend Section 21537.5 of, and to add Section 20037.8 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2006. Filed with Secretary of State September 6, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve the provisions of agreements pursuant to Section 3517 of the Government Code entered into by the state employer and

State Bargaining Units 12 and 13, International Union of Operating Engineers, on June 29, 2006, (State Bargaining Unit 12), and July 10, 2006, (State Bargaining Unit 13), that require the expenditure of funds.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Units 12 and 13, International Union of Operating Engineers, and that require the expenditure of funds, are hereby approved for the purposes of subdivision (b) of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memoranda of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memoranda of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding included in Section 2 that require the expenditure of funds shall become effective even if the provisions of the memoranda of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20037.8 is added to the Government Code, to read:

20037.8. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 12 or 13, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 12 or 13.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 12 or 13 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 6. Section 21537.5 of the Government Code is amended to read:

21537.5. (a) The special death benefit is payable if the deceased was a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation, if his or her death occurred as a direct result of injury arising out of and in the course of his or her official duties with the department working on the California highway system performing highway maintenance, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of that injury.

(b) The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section shall not become operative unless and until a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this section applicable to those members described in subdivision (a).

SEC. 7. The sum of forty-seven million seven hundred fifty-six thousand dollars ($47,756,000) is hereby appropriated for expenditure in the 2006–07 fiscal year in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2006 in accordance to the following schedule:

(a) Seventeen million five hundred sixty-three thousand dollars ($17,563,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Nineteen million three hundred twenty-three thousand dollars ($19,323,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Ten million eight hundred seventy thousand dollars ($10,870,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2006–07 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 211

An act to add Sections 8238, 8238.1, 8238.2, 8238.3, 8238.4, 8238.5, 8238.6, and 8239 to the Education Code, relating to child care, and making an appropriation therefor.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

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

(a) A compelling body of respected research demonstrates that quality preschool programs benefit children and their families, the public school system, public safety, the economy, and society as a whole.

(b) California has an enormous opportunity to reach children at a time when they are eager and ready to learn. 90 percent of brain development takes place before age five, making early childhood the best time to invest in preschool programs that boost learning, creativity, and social skills. Preschool programs lay a strong foundation that helps children succeed in school and in life.

(c) Quality preschool experiences boost academic achievement in school, decrease grade retention, decrease special education placements, and increase graduation rates. Quality preschool further reduces the likelihood of later arrest and incarceration, and increases college attendance and earnings in adulthood. A recent Rand Corporation report states that every dollar invested in quality preschool in California would return as much as two to four dollars to the public.

(d) Quality preschool experiences decrease special education placements, in part because they have the potential to provide early identification and intervention for young children with exceptional needs, which can reduce the need for ongoing special education services. Providing access to quality preschool for children with exceptional needs can help support their development and prepare them for a successful transition to kindergarten and beyond.

(e) Research confirms the many benefits that children, parents, and preschool programs gain when parents are involved in their child's preschool learning both inside the classroom and at home.

(f) The Council of Chief State School Officers has found that efforts to reform and strengthen public education cannot succeed without a concerted effort to support and improve programs that provide care and education for our youngest children.

SEC. 2. Section 8238 is added to the Education Code, to read:

8238. As a condition of receipt of funds pursuant to Section 8238.4, a participating program shall include, but not be limited to, both of the following:

(a) Age and developmentally appropriate activities for children in participating classrooms that are designed to facilitate their transition to kindergarten.

(b) Opportunities for parents and legal guardians to work with their children on interactive literacy activities. For purposes of this subdivision, "interactive literacy activities" means activities in which parents or legal guardians actively participate in facilitating the acquisition by their children of prereading skills through guided activities such as shared reading, learning the alphabet, and basic vocabulary development.

SEC. 3. Section 8238.1 is added to the Education Code, to read:

8238.1. As a condition of receipt of funds pursuant to Section 8238.4, a participating program shall coordinate the provision of all of the following:

(a) Parenting education for parents and legal guardians of children in participating classrooms to support the development by their children of literacy skills. Parenting education shall include, but not be limited to, instruction in all of the following:

(1) Providing support for the educational growth and success of their children.

(2) Improving the parent-school communications and parental understanding of school structures and expectations.

(3) Becoming active partners with teachers in the education of their children.

(b) Referrals, as necessary, to providers of instruction in adult education and English as a second language in order to improve the academic skills of parents and legal guardians of children in participating classrooms.

SEC. 4. Section 8238.2 is added to the Education Code, to read:

8238.2. A local educational agency on behalf of one or more participating programs may select a program coordinator whose duties may include the following:

(a) Developing a system to coordinate the provision of literacy services to families at the local educational agency and community level.

(b) Creating an organizational partnership between each program provider and an adult education program operated by a local educational agency or other community provider, as needed.

(c) Promoting parental involvement in participating classrooms.

SEC. 5. Section 8238.3 is added to the Education Code, to read:

8238.3. As a condition of receipt of funds pursuant to Section 8238.4, a participating program shall provide staff development for teachers in participating classrooms that includes, but is not limited to, all of the following:

(a) Development of a pedagogical knowledge including, but not limited to, improved instructional strategies.

(b) Knowledge and application of developmentally appropriate assessments of the prereading skills of children in participating classrooms.

(c) Information on working with families, including the use of on site coaching, for guided practice in interactive literacy activities.

SEC. 6. Section 8238.4 is added to the Education Code, to read:

8238.4. Of funds appropriated in Schedule (1) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2006 (Ch. 48, Stats. 2006) for child development and preschool programs, fifty million dollars ($50,000,000) is available for expenditure by the Superintendent as follows:

(a) (1) Forty-five million dollars ($45,000,000) to reimburse participating programs on a per-child basis at the same rate that is used for the state preschool program, as determined in the annual Budget Act or other statute.

(2) The funds described in paragraph (1) shall be assigned to programs located in the attendance area of elementary schools in deciles 1 to 3, inclusive, based on the 2005 base Academic Performance Index pursuant to Section 52056. Within elementary schools in deciles 1 to 3, inclusive, based on the 2005 base Academic Performance Index, preference shall be provided to underserved areas as described in subdivision (d) of section 8279.3.

(3) Notwithstanding any other provision of law, programs receiving funding in this section shall serve children who would attend kindergarten in the subsequent academic year. No child shall receive services from a program under this section for more than one year.

(4) Notwithstanding any other provision of law, a program receiving funding pursuant to this section may provide services to children in families above the income eligibility threshold, as described in Sections 8263 and 8263.1, if the number of contracted slots exceed the number

of eligible children. No more than 20 percent of contracted slots may be filled by children in families above the income eligibility threshold.

(5) The department shall report to the Department of Finance and the Legislature at budget hearings the number of children who are being served with the funds described in paragraph (1). The report shall also include the number of children served above the income eligibility threshold and the age of all children served.

(b) (1) Five million dollars ($5,000,000) to be distributed to each participating classroom at a rate of two thousand five hundred dollars ($2,500) per classroom per school year. Funds received pursuant to this subdivision may be used for all of the following purposes:

(A) Compensation and support costs for program coordinators as described in Section 8238.2.

(B) Staff development pursuant to Section 8238.3.

(C) Family literacy services.

(D) Instructional materials, including consumables.

(2) In the event that the total amount described in paragraph (1) is insufficient to fund all of the participating classrooms at the per classroom rate described in that paragraph, the classroom rate shall be prorated accordingly.

(c) The appropriation of funds for purposes of this section beyond the amounts described in this section shall be in the annual Budget Act or other statute.

SEC. 7. Section 8238.5 is added to the Education Code, to read:

8238.5. Subject to the availability of funds for purposes of this section, as described in subdivision (c) of 8238.4, the Superintendent shall conduct an evaluation of the effectiveness of prekindergarten and family literacy programs established pursuant to this article. To the extent feasible, the evaluation shall do both of the following:

(a) Rely on quantifiable measures of academic achievement of participating children, including, but not limited to, performance on the Standardized Testing and Reporting Program test and the English language development test administered in grade 3.

(b) Estimate the costs and benefits of the programs.

SEC. 8. Section 8238.6 is added to the Education Code, to read:

8238.6. Notwithstanding any other provision of law, up to five million dollars ($5,000,000) of unearned contract funds appropriated in Schedule (1.5)(a) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2005 (Ch. 38, Stats. 2005) for general child care programs is available for expenditure by the Superintendent to provide direct child care services for children in participating classrooms to meet the child care needs of parents for the portion of each day that is not covered by services provided as part of a preschool program pursuant Section 8238.4.

SEC. 9. Section 8239 is added to the Education Code, to read:

8239. The Superintendent shall encourage participating providers to offer full-day services through a combination of part-day preschool slots and part-day general child care and development programs. In order to facilitate a full-day of services, all of the following shall apply:

(a) Part-day preschool programs shall operate between 175 and 180 days.

(b) Part-day general child care and development programs may operate a minimum of 246 days per year unless the child development contract specified a lower minimum days of operation. Part-day general child care and development programs may operate a full-day for the remainder of the year after the completion of the preschool program.

(c) Full day services provided under this section shall be reimbursed at no more than the standard reimbursement rate with adjustment factors.

(d) Notwithstanding any provision of law, to be eligible for part-day child care, a child who is enrolled in a preschool program shall be required to meet the eligibility requirements specified in paragraph (4) of subdivision (a) of Section 8238.4 and the requirements pursuant to Section 8263 and 8263.1 at the time of enrollment in a preschool. Subsequent to enrollment, a child shall be deemed eligible for part-day care as long as the child is enrolled in a preschool program.

SEC. 10. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the State Department of Education for the 2006–07 fiscal year to administer the programs described in Section 8238.4 of the Education Code.

CHAPTER 212

An act to amend Section 275 of the Public Utilities Code, relating to telecommunications.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 275 of the Public Utilities Code, as amended by Section 1 of Chapter 767 of the Statutes of 2004, is amended to read:

275. (a) There is hereby created the California High-Cost Fund-A Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to small

independent telephone corporations providing local exchange services in high-cost rural and small metropolitan areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, the development of a grant program for the construction of telecommunications infrastructure as set forth in Section 276.5, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-A Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(d) The Legislature finds and declares that, because maintenance of universal public switched telephone network service throughout the state and maintenance of public safety answering points in high-cost areas of the state rely on appropriations from the California High-Cost Fund-A Administrative Committee Fund, maintaining adequate funding levels for the fund is critical to public health and safety.

CHAPTER 213

An act to amend Section 15146 to the Education Code, relating to education finance.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 15146 of the Education Code is amended to read:

15146. (a) The bonds shall be issued and sold pursuant to Section 15140, payable out of the interest and sinking fund of the district. The governing board may sell the bonds at a negotiated sale or by competitive bidding.

(b) Prior to the sale, the governing board shall adopt a resolution, as an agenda item at a public meeting, that includes all of the following:

(1) Express approval of the method of sale.

(2) Statement of the reasons for the method of sale selected.

(3) Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the governing board shall disclose their identities at the public meeting occurring after they have been selected.

(4) Estimates of the costs associated with the bond issuance.

(c) After the sale, the governing board shall do both of the following:

(1) Be presented with the actual cost information and disclose the actual cost information for the sale at its next scheduled public meeting.

(2) Submit an itemized summary of the costs of the bond sale to the California Debt and Investment Advisory Commission.

(d) The governing board shall ensure that all necessary information and reports regarding the sale or planned sale of bonds by the school district it governs are submitted to the California Debt and Investment Advisory Commission in compliance with Section 8855 of the Government Code.

(e) The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not to exceed the maximum rate permitted by law. If the sale is by competitive bid, the governing board shall comply with Sections 15147 and 15148. The bonds shall be sold by the governing board no later than the date designated by the governing board as the final date for the sale of the bonds.

(f) The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

(g) The governing board may cause to be deposited proceeds of sale of any series of the bonds in an amount not exceeding 2 percent of the principal amount of the bonds in a costs of issuance account, which may

be created in the county treasury or held by a fiscal agent appointed by the district for this purpose, separate from the building fund and the interest and sinking fund of the district. The proceeds deposited shall be drawn out on the order of the governing board or an officer of the district duly authorized by the governing board to make the order, only to pay authorized costs of issuance of the bonds. Upon the order of the governing board or duly authorized officer, the remaining balance shall be transferred to the county treasury to the credit of the building fund of the school district or community college district. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(h) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount of the annual reserve permitted by Section 15250 or in any lesser amount, as the governing board shall determine from time to time. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(i) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount not exceeding the interest scheduled to become due on that series of bonds for a period of two years from the date of issuance of that series of bonds. The deposit of bonds proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

CHAPTER 214

An act to amend Sections 114, 600, 603, 1301, 1501, 8321, 12591, 15634, 17106, and 28501 of the Corporations Code, relating to corporations.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 114 of the Corporations Code is amended to read:

114. All references in this division to financial statements, balance sheets, income statements, and statements of cashflows, and all references to assets, liabilities, earnings, retained earnings, and similar accounting items of a corporation mean those financial statements or comparable

statements or items prepared or determined in conformity with generally accepted accounting principles then applicable, fairly presenting in conformity with generally accepted accounting principles the matters that they purport to present, subject to any specific accounting treatment required by a particular section of this division. Unless otherwise expressly stated, all references in this division to financial statements mean, in the case of a corporation that has subsidiaries, consolidated statements of the corporation and each of its subsidiaries as are required to be included in the consolidated statements under generally accepted accounting principles then applicable and all references to accounting items mean the items determined on a consolidated basis in accordance with the consolidated financial statements. Financial statements other than annual statements may be condensed or otherwise presented as permitted by authoritative accounting pronouncements.

SEC. 2. Section 600 of the Corporations Code is amended to read:

600. (a) Meetings of shareholders may be held at any place within or without this state as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, shareholder meetings shall be held at the principal executive office of the corporation. Unless prohibited by the bylaws of the corporation, if authorized by the board of directors in its sole discretion, and subject to the requirement of consent in clause (b) of Section 20 and those guidelines and procedures as the board of directors may adopt, shareholders not physically present in person or by proxy at a meeting of shareholders may, by electronic transmission by and to the corporation (Sections 20 and 21) or by electronic video screen communication, participate in a meeting of shareholders, be deemed present in person or by proxy, and vote at a meeting of shareholders whether that meeting is to be held at a designated place or in whole or in part by means of electronic transmission by and to the corporation or by electronic video screen communication, in accordance with subdivision (e).

(b) An annual meeting of shareholders shall be held for the election of directors on a date and at a time stated in or fixed in accordance with the bylaws. However, if the corporation is a regulated management company, a meeting of shareholders shall be held as required by the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.). Any other proper business may be transacted at the annual meeting. For purposes of this subdivision, "regulated management company" means a regulated investment company as defined in Section 851 of the federal Internal Revenue Code.

(c) If there is a failure to hold the annual meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the organization of the corporation or

after its last annual meeting, the superior court of the proper county may summarily order a meeting to be held upon the application of any shareholder after notice to the corporation giving it an opportunity to be heard. The shares represented at the meeting, either in person or by proxy, and entitled to vote thereat shall constitute a quorum for the purpose of the meeting, notwithstanding any provision of the articles or bylaws or in this division to the contrary. The court may issue any orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of shareholders entitled to vote, and the form of notice of the meeting.

(d) Special meetings of the shareholders may be called by the board, the chairperson of the board, the president, the holders of shares entitled to cast not less than 10 percent of the votes at the meeting, or any additional persons as may be provided in the articles or bylaws.

(e) A meeting of the shareholders may be conducted, in whole or in part, by electronic transmission by and to the corporation or by electronic video screen communication (1) if the corporation implements reasonable measures to provide shareholders (in person or by proxy) a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting concurrently with those proceedings, and (2) if any shareholder votes or takes other action at the meeting by means of electronic transmission to the corporation or electronic video screen communication, a record of that vote or action is maintained by the corporation. Any request by a corporation to a shareholder pursuant to clause (b) of Section 20 for consent to conduct a meeting of shareholders by electronic transmission by and to the corporation shall include a notice that, absent consent of the shareholder pursuant to clause (b) of Section 20, the meeting shall be held at a physical location in accordance with subdivision (a).

SEC. 3. Section 603 of the Corporations Code is amended to read:

603. (a) Unless otherwise provided in the articles, any action that may be taken at any annual or special meeting of shareholders may be taken without a meeting and without prior notice, if a consent in writing, as specified in Section 195, setting forth the action so taken, shall be provided by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all shares entitled to vote thereon were present and voted.

(b) Unless the consents of all shareholders entitled to vote have been solicited in writing, both of the following shall apply:

(1) Notice of any shareholder approval pursuant to Section 310, 317, 1152, 1201 or 2007 without a meeting by less than unanimous written

consent shall be given at least 10 days before the consummation of the action authorized by that approval. Notice shall be given as provided in subdivision (b) of Section 601.

(2) Prompt notice shall be given of the taking of any other corporate action approved by shareholders without a meeting by less than unanimous written consent, to those shareholders entitled to vote who have not consented in writing. Notice shall be given as provided in subdivision (b) of Section 601.

(c) Any shareholder giving a written consent, or the shareholder's proxyholders, or a transferee of the shares or a personal representative of the shareholder or their respective proxyholders, may revoke the consent personally or by proxy by a writing received by the corporation prior to the time that written consents of the number of shares required to authorize the proposed action have been filed with the secretary of the corporation, but may not do so thereafter. The revocation is effective upon its receipt by the secretary of the corporation.

(d) Notwithstanding subdivision (a), directors may not be elected by written consent except by unanimous written consent of all shares entitled to vote for the election of directors; provided that the shareholders may elect a director to fill a vacancy, other than a vacancy created by removal, by the written consent of a majority of the outstanding shares entitled to vote.

SEC. 4. Section 1301 of the Corporations Code is amended to read:

1301. (a) If, in the case of a reorganization, any shareholders of a corporation have a right under Section 1300, subject to compliance with paragraphs (3) and (4) of subdivision (b) thereof, to require the corporation to purchase their shares for cash, that corporation shall mail to each such shareholder a notice of the approval of the reorganization by its outstanding shares (Section 152) within 10 days after the date of that approval, accompanied by a copy of Sections 1300, 1302, 1303, and 1304 and this section, a statement of the price determined by the corporation to represent the fair market value of the dissenting shares, and a brief description of the procedure to be followed if the shareholder desires to exercise the shareholder's right under those sections. The statement of price constitutes an offer by the corporation to purchase at the price stated any dissenting shares as defined in subdivision (b) of Section 1300, unless they lose their status as dissenting shares under Section 1309.

(b) Any shareholder who has a right to require the corporation to purchase the shareholder's shares for cash under Section 1300, subject to compliance with paragraphs (3) and (4) of subdivision (b) thereof, and who desires the corporation to purchase shares shall make written demand upon the corporation for the purchase of those shares and

payment to the shareholder in cash of their fair market value. The demand is not effective for any purpose unless it is received by the corporation or any transfer agent thereof (1) in the case of shares described in clause(A) or (B) of paragraph (1) of subdivision (b) of Section 1300 (without regard to the provisos in that paragraph), not later than the date of the shareholders' meeting to vote upon the reorganization, or (2) in any other case within 30 days after the date on which the notice of the approval by the outstanding shares pursuant to subdivision (a) or the notice pursuant to subdivision (i) of Section 1110 was mailed to the shareholder.

(c) The demand shall state the number and class of the shares held of record by the shareholder which the shareholder demands that the corporation purchase and shall contain a statement of what that shareholder claims to be the fair market value of those shares as of the day before the announcement of the proposed reorganization or short-form merger. The statement of fair market value constitutes an offer by the shareholder to sell the shares at that price.

SEC. 5. Section 1501 of the Corporations Code is amended to read:

1501. (a) The board shall cause an annual report to be sent to the shareholders not later than 120 days after the close of the fiscal year, unless in the case of a corporation with less than 100 holders of record of its shares (determined as provided in Section 605) this requirement is expressly waived in the bylaws. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that report and any accompanying material sent pursuant to this section may be sent by electronic transmission by the corporation (Section 20). This report shall contain a balance sheet as of the end of that fiscal year and an income statement and a statement of cashflows for that fiscal year, accompanied by any report thereon of independent accountants or, if there is no report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

Unless so waived, the report shall be sent to the shareholders at least 15 (or, if sent by third-class mail, 35) days prior to the annual meeting of shareholders to be held during the next fiscal year, but this requirement shall not limit the requirement for holding an annual meeting as required by Section 600.

Notwithstanding Section 114, the financial statements of any corporation with fewer than 100 holders of record of its shares (determined as provided in Section 605) required to be furnished by this subdivision and subdivision (c) are not required to be prepared in conformity with generally accepted accounting principles if they reasonably set forth the assets and liabilities and the income and expense

of the corporation and disclose the accounting basis used in their preparation.

(b) In addition to the financial statements required by subdivision (a), the annual report of any corporation having 100 or more holders of record of its shares (determined as provided in Section 605) either not subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934, or exempted from those reporting requirements by Section 12(g)(2) of that act, shall also describe briefly both of the following:

(1) Any transaction (excluding compensation of officers and directors) during the previous fiscal year involving an amount in excess of forty thousand dollars ($40,000) (other than contracts let at competitive bid or services rendered at prices regulated by law) to which the corporation or its parent or subsidiary was a party and in which any director or officer of the corporation or of a subsidiary or (if known to the corporation or its parent or subsidiary) any holder of more than 10 percent of the outstanding voting shares of the corporation had a direct or indirect material interest, naming the person and stating the person's relationship to the corporation, the nature of the person's interest in the transaction and, where practicable, the amount of the interest; provided that in the case of a transaction with a partnership of which the person is a partner, only the interest of the partnership need be stated; and provided further that no report need be made in the case of any transaction approved by the shareholders (Section 153).

(2) The amount and circumstances of any indemnification or advances aggregating more than ten thousand dollars ($10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 317; provided that no report need be made in the case of indemnification approved by the shareholders (Section 153) under paragraph (2) of subdivision (e) of Section 317.

(c) If no annual report for the last fiscal year has been sent to shareholders, the corporation shall, upon the written request of any shareholder made more than 120 days after the close of that fiscal year, deliver or mail to the person making the request within 30 days thereafter the financial statements required by subdivision (a) for that year. A shareholder or shareholders holding at least 5 percent of the outstanding shares of any class of a corporation may make a written request to the corporation for an income statement of the corporation for the three-month, six-month or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request and a balance sheet of the corporation as of the end of the period and, in addition, if no annual report for the last fiscal year has been sent to shareholders, the statements referred to in subdivision (a) for the last fiscal year. The statements shall be delivered or mailed to the person making the request

within 30 days thereafter. A copy of the statements shall be kept on file in the principal office of the corporation for 12 months and it shall be exhibited at all reasonable times to any shareholder demanding an examination of the statements or a copy shall be mailed to the shareholder.

(d) The quarterly income statements and balance sheets referred to in this section shall be accompanied by the report thereon, if any, of any independent accountants engaged by the corporation or the certificate of an authorized officer of the corporation that the financial statements were prepared without audit from the books and records of the corporation.

(e) In addition to the penalties provided for in Section 2200, the superior court of the proper county shall enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(f) In any action or proceeding under this section, if the court finds the failure of the corporation to comply with the requirements of this section to have been without justification, the court may award an amount sufficient to reimburse the shareholder for the reasonable expenses incurred by the shareholder, including attorneys' fees, in connection with the action or proceeding.

(g) This section applies to any domestic corporation and also to a foreign corporation having its principal executive office in this state or customarily holding meetings of its board in this state.

SEC. 6. Section 8321 of the Corporations Code is amended to read:

8321. (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member, the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that report and any accompanying material may be sent by electronic transmission by the corporation (Section 20). That report shall contain in appropriate detail the following:

(1) A balance sheet as of the end of that fiscal year and an income statement and a statement of cashflows for that fiscal year.

(2) A statement of the place where the names and addresses of the current members are located.

(3) Any information required by Section 8322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no report, the certificate of an authorized officer of the corporation that the

statements were prepared without audit from the books and records of the corporation.

(c) Subdivision (a) does not apply to any corporation that receives less than ten thousand dollars ($10,000) in gross revenues or receipts during the fiscal year.

SEC. 7. Section 12591 of the Corporations Code is amended to read:

12591. (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member, the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that report and any accompanying material sent pursuant to this section may be sent by electronic transmission by the corporation (Section 20). That report shall contain in appropriate detail the following:

(1) A balance sheet as of the end of that fiscal year and an income statement and a statement of cashflows for that fiscal year.

(2) A statement of the place where the names and addresses of the current members are located.

(3) Any information required by Section 12592.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

(c) This section does not apply to corporations that do not have more than 25 members at any time during the fiscal year.

SEC. 8. Section 15634 of the Corporations Code is amended to read:

15634. (a) Upon the request of a limited partner, the general partners shall promptly deliver to the limited partner, at the expense of the partnership, a copy of the information required to be maintained by subdivision (a), (b), or (d) of Section 15615.

(b) Each limited partner has the right upon reasonable request to each of the following:

(1) Inspect and copy during normal business hours any of the partnership records required to be maintained by Section 15615.

(2) Obtain from the general partners, promptly after becoming available, a copy of the limited partnership's federal, state, and local income tax or information returns for each year.

(c) In the case of any limited partnership with more than 35 limited partners:

(1) The general partners shall cause an annual report to be sent to each of the partners not later than 120 days after the close of the fiscal year. That report shall contain a balance sheet as of the end of the fiscal year and an income statement and a statement of cashflows for the fiscal year.

(2) Limited partners representing at least 5 percent of the interests of limited partners may make a written request to a general partner for an income statement of the limited partnership for the initial three-month, six-month, or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request and a balance sheet of the partnership as of the end of that period. The statement shall be delivered or mailed to the limited partners within 30 days thereafter.

(3) The financial statements referred to in this section shall be accompanied by the report thereon, if any, of the independent accountants engaged by the partnership or, if there is no report, the certificate of a general partner of the partnership that the financial statements were prepared without audit from the books and records of the limited partnership.

(d) The general partners shall promptly furnish to a limited partner a copy of any amendment to the partnership agreement executed by a general partner pursuant to a power of attorney from the limited partner.

(e) The general partners shall send to each of the partners within 90 days after the end of each taxable year the information necessary to complete federal and state income tax or information returns, and, in the case of a limited partnership with 35 or fewer limited partners, a copy of the limited partnership's federal, state, and local income tax or information returns for the year.

(f) In addition to any other remedies, a court of competent jurisdiction may enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(g) In any action under this section, if the court finds the failure of the partnership to comply with the requirements of this section to have been without justification, the court may award an amount sufficient to reimburse the partners bringing the action for the reasonable expenses incurred by the partners, including attorneys' fees, in connection with the action or proceeding.

(h) Any waiver by a partner of the rights provided in this section shall be unenforceable.

(i) Any request, inspection, or copying by a limited partner may be made by the limited partner or by the limited partner's agent or attorney.

SEC. 9. Section 17106 of the Corporations Code is amended to read:

17106. (a) Upon the request of a member or a holder of an economic interest, for purposes reasonably related to the interest of that person as a member or a holder of an economic interest, a manager shall promptly deliver, in writing, to the member or holder of an economic interest, at the expense of the limited liability company, a copy of the information required to be maintained by paragraphs (1), (2), and (4) of subdivision (a) of Section 17058, and any written operating agreement of the limited liability company.

(b) Each member, manager, and holder of an economic interest has the right upon reasonable request, for purposes reasonably related to the interest of that person as a member, manager, or holder of an economic interest, to each of the following:

(1) To inspect and copy during normal business hours any of the records required to be maintained by Section 17058.

(2) To obtain in writing from the limited liability company promptly after becoming available, a copy of the limited liability company's federal, state, and local income tax or information returns for each year.

(c) In the case of any limited liability company with more than 35 members:

(1) A manager shall cause an annual report to be sent to each of the members not later than 120 days after the close of the fiscal year. That report, which may be sent by electronic transmission by the limited liability company (paragraph (1) of subdivision (o) of Section 17001), shall contain a balance sheet as of the end of the fiscal year and an income statement and a statement of cashflows for the fiscal year.

(2) Members representing at least 5 percent of the voting interests of members, or three or more members, may make a written request to a manager for an income statement of the limited liability company for the initial three-month, six-month, or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request, and a balance sheet of the limited liability company as of the end of that period. The statement shall be delivered or mailed to the members within 30 days thereafter.

(3) The financial statements referred to in this section shall be accompanied by the report thereon, if any, of the independent accountants engaged by the limited liability company or, if there is no report, the certificate of a manager of the limited liability company that the financial statements were prepared without audit from the books and records of the limited liability company.

(d) A manager shall promptly furnish to a member a copy of any amendment to the articles of organization or operating agreement executed by a manager pursuant to a power of attorney from the member.

The articles of organization or operating agreement may be sent by electronic transmission by the limited liability company.

(e) The limited liability company shall send or cause information to be sent in writing to each member or holder of an economic interest within 90 days after the end of each taxable year the information necessary to complete federal and state income tax or information returns, and, in the case of a limited liability company with 35 or fewer members, a copy of the limited liability company's federal, state, and local income tax or information returns for the year.

(f) In addition to any other remedies, a court of competent jurisdiction may enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(g) In any action under this section, if the court finds the failure of the limited liability company to comply with the requirements of this section is without justification, the court may award an amount sufficient to reimburse the person bringing the action for the reasonable expenses incurred by that person, including attorneys' fees, in connection with the action or proceeding.

(h) Any waiver of the rights provided in this section shall be unenforceable.

(i) Any request, inspection, or copying by a member or holder of an economic interest may be made by that person or by that person's agent or attorney.

SEC. 10. Section 28501 of the Corporations Code is amended to read:

28501. Each licensee shall, not more than 90 days after the close of each of its fiscal years or within a longer period that the commissioner may by regulation or order specify, file with the commissioner an audit report containing all of the following:

(a) Financial statements (including balance sheets, statements of income or loss, statements of changes in capital accounts, and statements of cashflows or, in the case of a licensee that is a California nonprofit corporation, comparable financial statements) for, or as of, the end of the fiscal year, prepared, with audit, by an independent certified public accountant in accordance with generally accepted accounting principles.

(b) A report, certificate, or opinion of the independent certified public accountant or independent public accountant, stating that the financial statements were prepared in accordance with generally accepted accounting principles.

(c) Any other information that the commissioner may by regulation or order require.

CHAPTER 215

An act relating to donative transfers.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. (a) The California Law Revision Commission shall study the operation and effectiveness of the provisions of the Probate Code restricting donative transfers to certain classes of individuals, and shall recommend revisions and improvements to those provisions. The commission shall report all of its findings to the Legislature on or before January 1, 2009.

(b) In considering the overall effectiveness of the current statutory scheme in protecting prospective transferors from fraud, menace, or undue influence, while still ensuring the freedom of transferors to dispose of their estates as they desire and reward true "good Samaritans," the commission shall address the following specific issues:

(1) Whether the potential for abuse by care custodians militates in favor of creating a separate, more restrictive, regulatory scheme for donative transfers to that class and how the common law presumption of undue influence that arises when a person having a confidential relationship with a transferor, who actively participates in the transfer and unduly benefits from it, bears on this.

(2) Whether the provisions concerning gifts to care custodians should be moved to a separate section of the Probate Code.

(3) Whether the definition of "care custodian" contained in subdivision (c) of Section 21350 of the Probate Code should be changed and whether it should include long time family friends, nonprofessional caregivers who have a preexisting relationship with the transferor, or other "good Samaritans."

(4) Whether it should be necessary to have a second attorney, rather than the drafting attorney, sign a certificate of independent review in cases in which the drafting attorney is independent of the transferee.

(5) Whether the potential for fraud, menace, or undue influence by a drafting attorney in cases where the drafting attorney, his or her employees, or family, relatives, or any person with a close relationship

to the drafting attorney is a transferee, should be addressed in the statute. Also, whether the uses of the drafting attorney's testimony is or should be limited pursuant to subdivision (d) of Section 21351 of the Probate Code, in cases in which that attorney is independent, and if so, whether the statute should be changed accordingly.

(6) What is or should be the meaning of the phrase "not based solely upon the testimony of any person described in subdivision (a) of Section 21350" contained in subdivision (d) of Section 21351 of the Probate Code, and to what extent there is an actual need for a limitation on testimony.

(7) Whether donative transfers to care custodians should be invalid if the transferor executes the instrument making the donative transfer within a given period after the relationship between the donor and the care custodian begins.

CHAPTER 216

An act to add Section 18900.6 to the Government Code, relating to state civil service.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 18900.6 is added to the Government Code, to read:

18900.6. (a) The board may authorize the use of skills-based certification for information technology classifications if all of the following conditions are satisfied:

(1) There is a job analysis that meets the standards outlined in the State Personnel Board selection manual.

(2) The class is used on a service wide basis.

(3) The class is broad and includes a number of distinct assignments.

(4) It is in the best interest of the state to use skills-based certification.

(b) For purposes of this section, "skills-based certification" means the creation of a unique certification list for each vacancy within a class. Skills-based certification is created by weighting the scores attained by competitors of all measured knowledge, skills, and abilities to reflect their relative importance to the job, as identified by a job analysis for each vacancy. Skills-based certification shall replace the single eligible list for a classification with an unique list of eligible individuals for each

vacancy. Skills-based certification shall determine the order of individuals on a certification list; it shall not affect the rules for using certification lists.

(c) The board shall also promulgate regulations specifying how skills-based certification shall be implemented. Among other things, these regulations shall include provisions to ensure fairness to all candidates and prevent improper manipulation.

CHAPTER 217

An act to amend Sections 321.6, 1731, 1756, 1768, and 1769 of, to add Section 384.2 to, and to repeal Sections 316 and 321.7 of, the Public Utilities Code, and to repeal Section 13 of Chapter 856 of the Statutes of 1996, relating to the Public Utilities Commission.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 384.2 is added to the Public Utilities Code, to read:

384.2. The commission shall submit a report to the Legislature by July 15, 2009, and triennially thereafter, on the energy efficiency and conservation programs it oversees. The report shall include information regarding authorized utility budgets and expenditures and projected and actual energy savings over the program cycle.

SEC. 2. Section 1 of this act supersedes the reporting requirements of Section 2 of Item 8660-001-0462 of the Supplemental Report of the 1999 Budget Act.

SEC. 3. Section 316 of the Public Utilities Code is repealed.

SEC. 4. Section 321.6 of the Public Utilities Code is amended to read:

321.6. The commission shall do all of the following:

(a) Develop, publish, and annually update an annual work plan that describes in clear detail the scheduled ratemaking proceedings and other decisions that may be considered by the commission during the calendar year. The plan shall include, but is not limited to, information on how members of the public and ratepayers can gain access to the commission's ratemaking process and information regarding the specific matters to be decided. The plan shall also include information on the operation of the office of the public advisor and identify the names and telephone numbers

of those contact persons responsible for specific cases and matters to be decided. The plan shall also include a statement that specifies activities that the commission proposes to reduce the costs of, and rates for, energy, including electricity, and for improving the competitive opportunities for state agriculture and other rural energy consumers. The commission shall post the plan under the Official Documents area of its Internet Web site and shall develop a program to disseminate the information in the plan utilizing computer mailing lists to provide regular updates on the information to those members of the public and organizations which request that information.

(b) Produce a complete accounting of its transactions and proceedings for the preceding year, together with other facts, suggestions, and recommendations that it deems of value to the people of the state and a statement that specifies the activities and achievements of the commission in reducing the costs of, and rates for, energy, including electricity, for state agriculture and other rural energy consumers.

(c) Create a report on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings.

(d) Submit annually the plan, accounting, and report required by subdivisions (a), (b), and (c) to the Governor and Legislature no later than February 1 of each year.

SEC. 5. Section 321.7 of the Public Utilities Code is repealed.

SEC. 6. Section 1731 of the Public Utilities Code is amended to read:

1731. (a) The commission shall set an effective date when issuing an order or decision. The commission may set the effective date of an order or decision prior to the date of issuance of the order or decision.

(b) (1) After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property.

(2) The commission shall notify the parties of the issuance of an order or decision by either mail or electronic transmission. Notification of the parties may be accomplished by one of the following methods:

(A) Mailing the order or decision to the parties to the action or proceeding.

(B) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting an electronic copy of the official version of the order or decision to the party if the party has provided an electronic mail address to the commission.

(C) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting a link to an Internet Web site where the official version of the order or decision is readily available to the party if the party has provided an electronic mail address to the commission.

(3) For the purposes of this article, "date of issuance" means the mailing or electronic transmission date that is stamped on the official version of the order or decision

(c) No cause of action arising out of any order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the department's revenue requirements, or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the Department of Water Resources, the expedited review of order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes pursuant to that division, shall accrue in any court to any corporation or person unless the corporation or person has filed an application with the commission for a rehearing within 10 days after the date of issuance of the order or decision. The Department of Water Resources shall notify the commission of any determination pursuant to paragraph (2) of this subdivision prior to the issuance by the commission of any order or decision construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session. The commission shall issue its decision and order on rehearing within 20 days after the filing of the application.

SEC. 7. Section 1756 of the Public Utilities Code is amended to read:

1756. (a) Within 30 days after the commission issues its decision denying the application for a rehearing, or, if the application was granted, then within 30 days after the commission issues its decision on rehearing, or at least 120 days after the application is granted if no decision on rehearing has been issued, any aggrieved party may petition for a writ of review in the court of appeal or the Supreme Court for the purpose of having the lawfulness of the original order or decision or of the order or decision on rehearing inquired into and determined. If the writ issues, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified.

(b) The petition for review shall be served upon the executive director and the general counsel of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date of issuance, as defined in paragraph (4) of subdivision (b) of Section 1731.

(d) The venue of a petition filed in the court of appeal pursuant to this section shall be in the judicial district in which the petitioner resides. If the petitioner is a business, venue shall be in the judicial district in which the petitioner has its principal place of business in California.

(e) Any party may seek from the Supreme Court, pursuant to California Rules of Court, an order transferring related actions to a single appellate district.

(f) For purposes of this section, review of decisions pertaining solely to water corporations shall only be by petition for writ of review in the Supreme Court, except that review of complaint or enforcement proceedings may be in the court of appeal or the Supreme Court.

(g) No order or decision arising out of a commission proceeding under Section 854 shall be reviewable in the court of appeal pursuant to subdivision (a) if the application for commission authority to complete the merger or acquisition was filed on or before December 31, 1998, by two telecommunications-related corporations including at least one which provides local telecommunications service to over one million California customers. These orders or decisions shall be reviewed pursuant to the Public Utilities Code in existence on December 31, 1998.

SEC. 8. Section 1768 of the Public Utilities Code is amended to read:

1768. The following procedures shall apply to judicial review of an order or decision of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the revenue requirements of the Department of Water

Resources or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the department, the expedited review of an order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes pursuant to that division:

(a) Within 30 days after the commission issues its order or decision denying the application for a rehearing, or, if the application is granted, then within 30 days after the commission issues its decision on rehearing, any aggrieved party may petition for a writ of review in the California Supreme Court for the purpose of determining the lawfulness of the original order or decision or of the order or decision on rehearing. If the writ issues, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified. No order of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session shall be subject to review in the courts of appeal.

(b) The petition for review shall be served upon the executive director and the general counsel of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date of issuance, as defined in paragraph (4) of subdivision (b) of Section 1731.

(d) All actions and proceedings under this section and all actions or proceedings to which the commission or the people of the State of California are parties in which any question arises under this section, or under or concerning any order or decision of the commission under this section, shall be preferred over, and shall be heard and determined in preference to, all other civil business except election causes, irrespective of position on the calendar.

(e) The provisions of this article apply to actions under this section to the extent that those provisions are not in conflict with this section.

SEC. 9. Section 1769 of the Public Utilities Code is amended to read:

1769. The following procedures shall apply to judicial review of an order or decision of the commission interpreting, implementing, or applying the provisions of Article 5.6 (commencing with Section 848) of Chapter 4:

(a) Within 10 days after the commission issues its order or decision denying the application for a rehearing, or, if the application is granted,

then within 10 days after the commission issues its decision on rehearing, any aggrieved party may petition for a writ of review in the California Supreme Court for the purpose of determining the lawfulness of the original order or decision or of the order or decision on rehearing. If the writ issues, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified. No order of the commission interpreting, implementing, or applying the provisions of Article 5.6 (commencing with Section 848) of Chapter 4 shall be subject to review in the courts of appeal.

(b) The petition for review shall be served upon the executive director and the general counsel of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date of issuance, as defined in paragraph (4) of subdivision (b) of Section 1731.

(d) The Legislature hereby declares that if a writ issues in an action under this section, delay in the determination of the writ will delay implementation of a securitized financing, thereby diminishing approximately $1 billion of total savings to Pacific Gas and Electric Company's ratepayers that might be achieved if a securitized financing were implemented immediately. Therefore, to maximize ratepayer benefits, review under this section should be expedited.

(e) The provisions of this article apply to actions under this section to the extent that those provisions are not in conflict with this section.

(f) 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. 10. Section 13 of Chapter 856 of the Statutes of 1996 is repealed.

CHAPTER 218

An act to amend Sections 4, 17, and 20.6 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), relating to water.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 4 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), as amended by Chapter 379 of the Statutes of 1987, is amended to read:

Sec. 4. (a) The government of the district shall be vested in the board of directors to consist of 10 members to be elected or appointed pursuant to this act, and a president, a first vice president, and a second vice president to be appointed from the 10 members of the board of directors and to hold office at the pleasure of the board of directors.

(b) The board of directors shall appoint, by a majority vote, a general manager, a secretary, treasurer, and auditor, and shall define their duties and fix their compensation. Each of these officers shall serve at the pleasure of the board. The county assessor and county tax collector of the County of Orange shall perform the duties of the office of assessor and tax collector for the district without additional compensation being paid by the district, in order to carry out the provisions of this act.

(c) The district may appoint and employ an attorney or attorneys and an engineer or engineers for the district and other officers and employees for the district that, in the judgment of the district, may be deemed necessary, and prescribe their duties and powers and compensation.

SEC. 2. Section 17 of the Orange county Water District Act (Chapter 924 of the Statutes of 1933), as amended by Chapter 141 of the Statutes of 1970, is amended to read:

Sec. 17. (a) The board of directors, on or before the first meeting of the board of supervisors of Orange County in August of each year, shall furnish the board of supervisors and the auditor of Orange County with an estimate in writing of the amount of money needed for the initiated or authorized purposes of the district for the current fiscal year, including the purchase of supplemental water for the replenishment of groundwater supplies of the district and amounts necessary for the payment of the principal of, and interest on, any bonded debt of the district as it becomes due.

(b) (1) The amount of the general assessment levied during any year, excluding the amounts necessary for the payment of the principal of, and interest on, any bonded debt of the district, shall not exceed twenty cents ($0.20) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district, excluding personal property, according to the last assessment rolls of Orange County.

(2) A tax rate in excess of eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district, excluding personal property, according to the last assessment rolls of Orange County, shall not be established unless authorized by an

affirmative vote of eight of the members of the Board of Directors of the Orange County Water District.

(3) The general assessments provided for in this section shall not exceed eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of mineral rights, where the mineral rights are assessed separately from the land.

(4) All funds derived from a general assessment in excess of those derived from eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district of any general assessment shall be deposited and applied to the water reserve fund.

(c) The amounts deposited and applied to the water reserve fund shall be used solely and exclusively for all of the following purposes:

(1) The purchase of supplemental water for the replenishment of the groundwater supplies of the district.

(2) Acquiring, constructing or developing intrusion prevention projects, spreading grounds or basins, wastewater reclamation and water salvage projects, canals, conduits, pipelines, wells, or other works useful or necessary for the purposes of the district and to carry out the provisions of this act.

(3) Acquiring any real or personal property or rights or privilege therein useful or necessary for the foregoing projects or works or for the purposes of the district and to carry out the provisions of this act.

(d) In addition to the purchase of supplemental water for the groundwater supplies of the district from the water reserve fund and from the replenishment fund, the board of directors may purchase water for the replenishment of the groundwater supplies of the district from the general fund upon the affirmative vote of at least eight members of the board of directors.

SEC. 3. Section 20.6 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), as amended by Chapter 508 of the Statutes of 1963, is amended to read:

Sec. 20.6. (a) For the purpose of constructing, purchasing, leasing or otherwise acquiring storage sites, water treatment or purification facilities, pumping stations, injection wells, spreading grounds, lands, canals, conduits, or other facilities, rights and privileges useful or necessary for the purposes of the district, and otherwise carrying out this act, and before any purposes or projects are instituted and carried out, the board of directors of the district shall determine whether any purpose or project is feasible and necessary and of general benefit to the lands in the district, and shall also estimate and determine the amount of money necessary to be raised for each purpose or project.

(b) For the purpose of ascertaining the feasibility, necessity, and general benefit of any purpose or project and the amount of money

necessary to be raised, the board of directors shall cause engineering investigations, surveys, examinations, drawings, plans, and reports to be made as shall furnish the proper basis for the purpose or project and its estimated cost.

(c) The engineering investigations, surveys, examinations, drawings, plans, and reports, and estimated cost, may reflect that the works necessary for a completed purpose or project shall be constructed progressively during a period of years. All engineering investigations, surveys, examinations, drawings, plans, and reports shall be made under the direction of a licensed engineer or geologist, and shall be certified by him or her. All data obtained by Orange County Flood Control District and all other available engineering data may be considered in all of the engineering investigations. The engineering investigations, surveys, examinations, drawings, plans, and reports, as applicable, shall be included in a report of a licensed engineer or geologist, to be approved by the board of directors prior to the beginning of work on the purpose or project.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district 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 219

An act to amend Sections 1812.84 and 1812.85 of the Civil Code, relating to contracts.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 1812.84 of the Civil Code is amended to read:

1812.84. (a) A contract for health studio services may not require payments or financing by the buyer to exceed the term of the contract, nor may the term of the contract exceed three years. This subdivision does not apply to a member's obligation to pay valid, outstanding moneys due under the contract, including moneys to be paid pursuant to a

termination notice period in the contract in which the termination notice period does not exceed 30 days.

(b) A contract for health studio services shall include a statement printed in a size at least 14-point type that discloses the length of the term of the contract. This statement shall be placed above the space reserved for the signature of the buyer.

SEC. 2. Section 1812.85 of the Civil Code is amended to read:

1812.85. (a) Every contract for health studio services shall provide that performance of the agreed-upon services will begin within six months after the date the contract is entered into. The consumer may cancel the contract and receive a pro rata refund if the health studio fails to provide the specific facilities advertised or offered in writing by the time indicated. If no time is indicated in the contract, the consumer may cancel the contract within six months after the execution of the contract and shall receive a pro rata refund. If a health studio fails to meet a timeline set forth in this section, the consumer may cancel the contract at any time after the expiration of the timeline. However, if following the expiration of the timeline, the health studio provides the advertised or agreed-upon services, the consumer may cancel the contract up to 10 days after those services are provided.

(b) (1) Every contract for health studio services shall, in addition, contain on its face, and in close proximity to the space reserved for the signature of the buyer, a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

"You, the buyer, may cancel this agreement at any time prior to midnight of the fifth business day of the health studio after the date of this agreement, excluding Sundays and holidays. To cancel this agreement, mail or deliver a signed and dated notice, or send a telegram which states that you, the buyer, are canceling this agreement, or words of similar effect. The notice shall be sent to,

_____

(Name of health studio operator)

at_____

(Address of health studio operator)."

(2) The contract for health studio services shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (A) the name and address of the health studio operator to which the notice of cancellation is to be mailed, and (B) the date the buyer signed the contract.

(3) The contract shall provide a description of the services, facilities, and hours of access to which the consumer is entitled. Any services,

facilities, and hours of access that are not described in the contract shall be considered optional services, and these optional services shall be considered as separate contracts for the purposes of this title and Section 1812.83.

(4) Until the health studio operator has complied with this section, the buyer may cancel the contract for health studio services.

(5) All moneys paid pursuant to a contract for health studio services shall be refunded within 10 days after receipt of the notice of cancellation, except that payment shall be made for any health studio services received prior to cancellation.

(c) If at any time during the term of the contract, including a transfer of the contractual obligation, the health studio eliminates or substantially reduces the scope of the facilities, such as swimming pools or tennis courts, that were described in the contract, in an advertisement relating to the specific location, or in a written offer, and available to the consumer upon execution of the contract, the consumer may cancel the contract and receive a pro rata refund. The consumer may not cancel the contract pursuant to this subdivision if the health studio, after giving reasonable notice to its members, temporarily takes facilities out of operation for reasonable repairs, modifications, substitutions, or improvements. This subdivision shall not be interpreted to give the consumer the right to cancel a contract because of changes to the type or quantity of classes or equipment offered, provided the consumer is informed in the contract that the health studio reserves the right to make changes to the type or quantity of classes or equipment offered and the changes to the type or quantity of classes or equipment offered are reasonable under the circumstances.

(d) (1) If a contract for health studio services requires payment of one thousand five hundred dollars ($1,500) to two thousand dollars ($2,000), inclusive, including initiation fees or initial membership fees, by the person receiving the services or the use of the facility, the person shall have the right to cancel the contract within 20 days after the contract is executed.

(2) If a contract for health studio services requires payment of two thousand one dollars ($2,001) to two thousand five hundred dollars ($2,500), inclusive, including initiation fees or initial membership fees, by the person receiving the services or the use of the facility, the person shall have the right to cancel the contract within 30 days after the contract is executed.

(3) If a contract for health studio services requires payment of two thousand five hundred one dollars ($2,501) or more, including initiation fees or initial membership fees, by the person receiving the services or

the use of the facility, the person shall have the right to cancel the contract within 45 days after the contract is executed.

(4) The right of cancellation provided in this subdivision shall be set out in the membership contract.

(5) The rights and remedies under this paragraph are cumulative to any rights and remedies under other law.

(6) A health studio entering into a contract for health studio services that requires a payment of less than one thousand five hundred dollars ($1,500), including initiation or initial membership fees and exclusive of interest or finance charges, by the person receiving the services or the use of the facilities, is not required to comply with paragraph (1), (2), or (3).

(e) Upon cancellation, the consumer shall be liable only for that portion of the total contract payment, including initiation fees and other charges however denominated, that has been available for use by the consumer, based upon a pro rata calculation over the term of the contract. The remaining portion of the contract payment shall be returned to the consumer by the health studio.

CHAPTER 220

An act to amend Section 107155 of, and to add Section 106976 to, the Health and Safety Code, relating to radiologic technology.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 106976 is added to the Health and Safety Code, to read:

106976. (a) Notwithstanding any other provision of the Radiologic Technology Act (Section 27), a person who is currently certified as meeting the standards of competence in nuclear medicine technology pursuant to Article 6 (commencing with Section 107150) may perform a computerized tomography scan only on a dual mode machine on which both a nuclear medicine procedure, including a positron emission tomography scan, and a computerized tomography scan may be performed if both of the following conditions are met:

(1) The person holds a current, valid certificate in computerized tomography issued by the American Registry of Radiologic

Technologists, or a similarly recognized organization, or is a student described in subdivision (b) of Section 106975.

(2) The person is under the supervision of a person who is an authorized user identified on a specific license authorizing medical use of radioactive materials pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

(b) A violation of this section is a misdemeanor pursuant to Section 107170 and a violator is subject to discipline pursuant to Section 107165.

SEC. 2. Section 107155 of the Health and Safety Code is amended to read:

107155. (a) Any person not currently licensed as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or as a clinical laboratory technologist, bioanalyst, or clinical chemist pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code, who performs nuclear medicine technology shall be subject to the standards of competence established by the department pursuant to this article.

(b) Nothing in this article shall be construed to limit the existing authority of, or scope of practice of, a physician and surgeon, clinical laboratory technologist, bioanalyst, or clinical chemist granted pursuant to their licenses, or to further require persons to establish competence to perform in vitro tests.

(c) In vitro procedures using radioactive materials shall be performed in a licensed clinical laboratory.

(d) This article shall not apply to any of the following persons:

(1) Any person employed by an agency of the United States government, while performing the duties of the employment.

(2) A licensed clinical laboratory technologist who administers a radioactive marker test substance to a human subject to perform a measurement on a sample containing the radioactive marker test substance that has been removed from the subject.

(3) A registered pharmacist who handles radioactive drugs in accordance with the California State Board of Pharmacy regulations contained in the most recent version of Sections 1708.3 to 1708.8, inclusive, of Article 2 of Chapter 17 of Title 16 of the California Code of Regulations.

(4) (A) A person who holds a current, valid certificate in diagnostic radiologic technology pursuant to subdivision (b) of Section 114870 may perform a positron emission tomography scan only on a dual mode machine on which both a positron emission tomography scan and a computerized tomography scan may be performed if both of the following conditions are met:

(i) The person holds a current, valid certificate in positron emission tomography issued by the Nuclear Medicine Technology Certification Board, or a similarly recognized organization, or complies with the regulations issued by the department governing students of nuclear medicine technology in order to obtain a current, valid certificate in positron emission tomography issued by the Nuclear Medicine Technology Certification Board.

(ii) The person is under the supervision of a person who is an authorized user identified on a specific license authorizing medical use of radioactive materials pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

(B) A violation of this paragraph is a misdemeanor pursuant to Section 107075 and a violator is subject to discipline pursuant to Sections 107065 and 107070.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 221

An act to amend Sections 366.2 and 366.3 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 366.2 of the Code of Civil Procedure is amended to read:

366.2. (a) If a person against whom an action may be brought on a liability of the person, whether arising in contract, tort, or otherwise, and whether accrued or not accrued, dies before the expiration of the applicable limitations period, and the cause of action survives, an action may be commenced within one year after the date of death, and the limitations period that would have been applicable does not apply.

(b) The limitations period provided in this section for commencement of an action shall not be tolled or extended for any reason except as provided in any of the following, where applicable:

(1) Sections 12, 12a, and 12b of this code.

(2) Part 4 (commencing with Section 9000) of Division 7 of the Probate Code (creditor claims in administration of estates of decedents).

(3) Part 8 (commencing with Section 19000) of Division 9 of the Probate Code (payment of claims, debts, and expenses from revocable trust of deceased settlor).

(4) Part 3 (commencing with Section 21300) of Division 11 of the Probate Code (no contest clauses).

(c) This section applies to actions brought on liabilities of persons dying on or after January 1, 1993.

SEC. 2. Section 366.3 of the Code of Civil Procedure is amended to read:

366.3. (a) If a person has a claim that arises from a promise or agreement with a decedent to distribution from an estate or trust or under another instrument, whether the promise or agreement was made orally or in writing, an action to enforce the claim to distribution may be commenced within one year after the date of death, and the limitations period that would have been applicable does not apply.

(b) The limitations period provided in this section for commencement of an action shall not be tolled or extended for any reason except as provided in Sections 12, 12a, and 12b of this code, and Part 3 (commencing with Section 21300) of Division 11 of the Probate Code.

(c) This section applies to actions brought on claims concerning persons dying on or after the effective date of this section.

CHAPTER 222

An act to amend Section 2633 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 2633 of the Business and Professions Code is amended to read:

2633. (a) A person holding a license as a physical therapist issued by the board may use the title “physical therapist” or the letters “P.T.”

or any other words, letters, or figures that indicate that the person using same is a licensed physical therapist. No other person shall be so designated or shall use the term licensed or registered physical therapist, licensed or registered physiotherapist, licensed or registered physical therapy technician, or the letters "L.P.T.," "R.P.T.," or "P.T.".

(b) A licensed physical therapist who has received a doctoral degree in physical therapy (DPT) or, after adoption of the regulations described in subdivision (d), a doctoral degree in a related health science may do the following:

(1) In a written communication, use the initials DPT, PhD, or EdD, as applicable, following the licensee's name.

(2) In a written communication, use the title "Doctor" or the abbreviation "Dr." preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.

(3) In a spoken communication while engaged in the practice of physical therapy, use the title "doctor" preceding the person's name, if the speaker specifies that he or she is a physical therapist.

(c) A doctoral degree described in subdivision (b) shall be granted by an institution accredited by the Western Association of Schools and Colleges or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.

(d) The board shall define, by regulation, the doctoral degrees that are in a related health science for purposes of subdivision (b).

CHAPTER 223

An act to amend Sections 125.3, 801, 801.1, 802, 802.1, 803, 803.1, 803.5, 804, 805, 805.2, 2027, and 2435 of, to add Section 801.01 to, to repeal Sections 802.3, 803.2, 803.3, and 804.5 of, and to repeal and add Section 2026 of, the Business and Professions Code, and to amend Section 12529.6 of the Government Code, relating to the healing arts.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. It is the intent of the Legislature, through a request in 2008 to the Joint Legislative Audit Committee, and thereafter every two

years prior to the inoperative date set forth in Section 2020 of the Business and Professions Code, that the Bureau of State Audits conduct a thorough performance audit of the Medical Board of California to evaluate the effectiveness and efficiency of the programs, and make recommendations regarding the continuation of its programs and any changes or reforms required to assure consumer protection through effective licensing and discipline of physicians and surgeons. The audits shall be completed in time to allow for the recommendations to be addressed in the legislation to extend or delete the repeal date of that section, if that legislation is introduced. The board and its staff shall cooperate with the audit, and the board shall provide data, information, and case files as requested by the auditor to perform all of its duties. The provision of confidential data, information, and case files by the board to the auditor shall not constitute a waiver of any exemption from disclosure or discovery or of any confidentiality protection or privilege otherwise provided by law that is applicable to the data, information, or case files.

SEC. 2. Section 125.3 of the Business and Professions Code, as amended by Section 2 of Chapter 674 of the Statutes of 2005, is amended to read:

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed

decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licentiate. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

SEC. 3. Section 801 of the Business and Professions Code is amended to read:

801. (a) Except as provided in Section 801.01 and subdivisions (b), (c), and (d) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency mentioned in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or

arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the

parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

(f) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

SEC. 4. Section 801.01 is added to the Business and Professions Code, to read:

801.01. (a) A complete report shall be sent to the Medical Board of California, the Osteopathic Medical Board, or the California Board of Podiatric Medicine, with respect to a licensee of the board as to the following:

(1) A settlement over thirty thousand dollars ($30,000) or arbitration award of any amount or a civil judgment of any amount, whether or not vacated by a settlement after entry of the judgment, that was not reversed on appeal, of a claim or action for damages for death or personal injury caused by the licensee's alleged negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(2) A settlement over thirty thousand dollars ($30,000) if it is based on the licensee's alleged negligence, error, or omission in practice, or by the licensee's rendering of unauthorized professional services, and a party to the settlement is a corporation, medical group, partnership, or other corporate entity in which the licensee has an ownership interest or that employs or contracts with the licensee.

(b) The report shall be sent by the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or his or her counsel, if the licensee does not possess professional liability insurance.

(3) A state or local governmental agency that self-insures the licensee.

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b) shall send the complete report if the judgment, settlement agreement, or arbitration award is entered against or paid by the employer of the licensee and not entered against or paid by the licensee. "Employer," as used in this paragraph, means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care foundation, an educational institution, a professional institution, a professional school or college, a general law corporation,

a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this paragraph shall be construed to authorize the employment of, or contracting with, any licensee in violation of Section 2400.

(d) The report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine, as appropriate, within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto, within 30 days after service of the arbitration award on the parties, or within 30 days after the date of entry of the civil judgment.

(e) If an insurer is required under subdivision (b) to send the report, the insurer shall notify the claimant, or if the claimant is represented by counsel, the claimant's counsel, that the insurer has sent the report to the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine. If the claimant, or his or her counsel, has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties or the arbitration award was served on the parties or the date of entry of the civil judgment, the claimant or the claimant's counsel shall make the report to the appropriate board.

(f) If the licensee or his or her counsel is required under subdivision (b) to send the report, the licensee or his or her counsel shall send a copy of the report to the claimant or to his or her counsel if he or she is represented by counsel. If the claimant or his or her counsel has not received a copy of the report within 45 days after the settlement was reduced to writing and signed by all of the parties or the arbitration award was served on the parties or the date of entry of the civil judgment, the claimant or the claimant's counsel shall make the report to the appropriate board.

(g) Failure of the licensee or claimant, or counsel representing the licensee or claimant, to comply with subdivision (f) is a public offense punishable by a fine of not less than fifty dollars ($50) and not more than five hundred dollars ($500). A knowing and intentional failure to comply with subdivision (f) or a conspiracy or collusion not to comply with subdivision (f), or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000).

(h) (1) The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine may develop a prescribed form for the report.

(2) The report shall be deemed complete only if it includes the following information:

(A) The name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not the person received an award under the settlement, arbitration, or judgment.

(B) The name and last known business and residential address of every physician and surgeon or doctor of podiatric medicine who was alleged to have acted improperly, whether or not that person was a named defendant in the action and whether or not that person was required to pay any damages pursuant to the settlement, arbitration award, or judgment.

(C) The name, address, and principal place of business of every insurer providing professional liability insurance to any person described in subparagraph (B), and the insured's policy number.

(D) The name of the court in which the action or any part of the action was filed, and the date of filing and case number of each action.

(E) A brief description or summary of the facts of each claim, charge, or allegation, including the date of occurrence.

(F) The name and last known business address of each attorney who represented a party in the settlement, arbitration, or civil action, including the name of the client he or she represented.

(G) The amount of the judgment and the date of its entry; the amount of the arbitration award, the date of its service on the parties, and a copy of the award document; or the amount of the settlement and the date it was reduced to writing and signed by all parties. If an otherwise reportable settlement is entered into after a reportable judgment or arbitration award is issued, the report shall include both the settlement and the judgment or award.

(H) The specialty or subspecialty of the physician and surgeon or the doctor of podiatric medicine who was the subject of the claim or action.

(I) Any other information the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine may, by regulation, require.

(3) Every professional liability insurer, self-insured governmental agency, or licensee or his or her counsel that makes a report under this section and has received a copy of any written or electronic patient medical or hospital records prepared by the treating physician and surgeon or podiatrist, or the staff of the treating physician and surgeon, podiatrist, or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the report, or a copy of any deposition in the matter that discusses the care, treatment, or medical condition of the person, shall include with the report, copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine. If

confidentiality is required by court order and, as a result, the reporter is unable to provide the records and depositions, documentation to that effect shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer, self-insured governmental agency, or licensee or his or her counsel shall maintain the records and depositions referred to in this paragraph for at least one year from the date of filing of the report required by this section.

(i) If the board, within 60 days of its receipt of a report filed under this section, notifies a person named in the report, that person shall maintain for the period of three years from the date of filing of the report any records he or she has as to the matter in question and shall make those records available upon request to the board to which the report was sent.

(j) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

SEC. 5. Section 801.1 of the Business and Professions Code is amended to read:

801.1. (a) Every state or local governmental agency that self insures a person who holds a license, certificate or similar authority from or under any agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every state or local governmental agency that self-insures a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the

written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

SEC. 6. Section 802 of the Business and Professions Code is amended to read:

802. (a) Every settlement, judgment, or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(b) Every settlement, judgment, or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by negligence, error, or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist or clinical social worker licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30

days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if he or she is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the marriage and family therapist or clinical social worker or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

SEC. 7. Section 802.1 of the Business and Professions Code is amended to read:

802.1. (a) (1) A physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine shall report either of the following to the entity that issued his or her license:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars ($5,000).

SEC. 8. Section 802.3 of the Business and Professions Code is repealed.

SEC. 9. Section 803 of the Business and Professions Code is amended to read:

803. (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Science Examiners or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or

personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, or doctor of podiatric medicine, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

SEC. 10. Section 803.1 of the Business and Professions Code is amended to read:

803.1. (a) Notwithstanding any other provision of law, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public information regarding any enforcement actions taken against a licensee by either board or by another state or jurisdiction, including all of the following:

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

(3) Revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement.

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

(b) Notwithstanding any other provision of law, in addition to the information provided in subdivision (a), the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public all of the following:

(1) Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii)

the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars ($30,000) or more.

(B) The board shall not disclose the actual dollar amount of a settlement but shall put the number and amount of the settlement in context by doing the following:

(i) Comparing the settlement amount to the experience of other licensees within the same specialty or subspecialty, indicating if it is below average, average, or above average for the most recent 10-year period.

(ii) Reporting the number of years the licensee has been in practice.

(iii) Reporting the total number of licensees in that specialty or subspecialty, the number of those who have entered into a settlement agreement, and the percentage that number represents of the total number of licensees in the specialty or subspecialty.

(3) Current American Board of Medical Specialty certification or board equivalent as certified by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine.

(4) Approved postgraduate training.

(5) Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations

defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027.

(6) Any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for medical disciplinary cause or reason.

(c) Notwithstanding any other provision of law, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public information received regarding felony convictions of a physician and surgeon or doctor of podiatric medicine.

(d) The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall include the following statement when disclosing information concerning a settlement:

"Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor's specialty and the doctor's history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather than questions of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the doctor's specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high-quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

Malpractice histories tend to vary by specialty. Some specialties are more likely than others to be the subject of litigation. This report compares doctors only to the members of their specialty, not to all doctors, in order to make an individual doctor's history more meaningful.

This report reflects data only for settlements made on or after January 1, 2003. Moreover, it includes information concerning those settlements for a 10-year period only. Therefore, you should know that a doctor may have made settlements in the 10 years immediately preceding January 1, 2003, that are not included in this report. After January 1, 2013, for doctors practicing less than 10 years, the data covers their total years of practice. You should take into account the effective date of settlement disclosure as well as how long the doctor has been in practice when considering malpractice averages.

The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to settle. Some doctors work primarily with high-risk patients. These doctors may have malpractice settlement histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.

Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the doctor. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

You may wish to discuss information in this report and the general issue of malpractice with your doctor."

(e) The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall not use the terms "enforcement," "discipline," or similar language implying a sanction unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(f) The Medical Board of California shall adopt regulations no later than July 1, 2003, designating each specialty and subspecialty practice area as either high risk or low risk. In promulgating these regulations, the board shall consult with commercial underwriters of medical malpractice insurance companies, health care systems that self-insure physicians and surgeons, and representatives of the California medical specialty societies. The board shall utilize the carriers' statewide data to establish the two risk categories and the averages required by subparagraph (B) of paragraph (2) of subdivision (b). Prior to issuing

regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

(g) The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall provide each licensee with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

(h) Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the specialty or subspecialty information required by this section shall group physicians by specialty board recognized pursuant to paragraph (5) of subdivision (h) of Section 651 unless a different grouping would be more valid and the board, in its statement of reasons for its regulations, explains why the validity of the grouping would be more valid.

SEC. 11. Section 803.2 of the Business and Professions Code is repealed.

SEC. 12. Section 803.3 of the Business and Professions Code is repealed.

SEC. 13. Section 803.5 of the Business and Professions Code is amended to read:

803.5. (a) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, or other appropriate allied health board, and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

SEC. 14. Section 804 of the Business and Professions Code is amended to read:

804. (a) Any agency to whom reports are to be sent under Section 801, 801.1, 802, or 803, may develop a prescribed form for the making

of the reports, usage of which it may, but need not, by regulation, require in all cases.

(b) A report required to be made by Sections 801, 801.1, or 802 shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not each plaintiff or claimant recovered anything; (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not that person was a named defendant and whether or not any recovery or judgment was had against that person; (3) the name, address, and principal place of business of every insurer providing professional liability insurance as to any person named in (2), and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) any other information the agency to whom the reports are to be sent may, by regulation, require.

(c) Every person named in the report, who is notified by the board within 60 days of the filing of the report, shall maintain for the period of three years from the filing of the report any records he or she has as to the matter in question and shall make those available upon request to the agency with which the report was filed.

SEC. 15. Section 804.5 of the Business and Professions Code is repealed.

SEC. 16. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) "Peer review body" includes:

(A) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare Program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide

services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(C) Any medical, psychological, marriage and family therapy, social work, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(D) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, or dentist. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date of any of the following that occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after any of the following occur after notice of either an impending investigation or the denial or rejection of the application for a medical disciplinary cause or reason:

(1) Resignation or leave of absence from membership, staff, or employment.

(2) The withdrawal or abandonment of a licentiate's application for staff privileges or membership.

(3) The request for renewal of those privileges or membership is withdrawn or abandoned.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If

the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(*l*) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars ($50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed

physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

SEC. 17. Section 805.2 of the Business and Professions Code is amended to read:

805.2. (a) It is the intent of the Legislature to provide for a comprehensive study of the peer review process as it is conducted by peer review bodies defined in paragraph (1) of subdivision (a) of Section 805, in order to evaluate the continuing validity of Section 805 and Sections 809 to 809.8, inclusive, and their relevance to the conduct of peer review in California.

(b) The Medical Board of California shall contract with an independent entity to conduct this study that is fair, objective, and free from bias that is directly familiar with the peer review process and does not advocate regularly before the board on peer review matters or on physician and surgeon disciplinary matters.

(c) The study by the independent entity shall include, but not be limited to, the following components:

(1) A comprehensive description of the various steps of and decisionmakers in the peer review process as it is conducted by peer review bodies throughout the state, including the role of other related committees of acute care health facilities and clinics involved in the peer review process.

(2) A survey of peer review cases to determine the incidence of peer review by peer review bodies, and whether they are complying with the reporting requirement in Section 805.

(3) A description and evaluation of the roles and performance of various state agencies, including the State Department of Health Services and occupational licensing agencies that regulate healing arts professionals, in receiving, reviewing, investigating, and disclosing peer review actions, and in sanctioning peer review bodies for failure to comply with Section 805.

(4) An assessment of the cost of peer review to licentiates and the facilities which employ them.

(5) An assessment of the time consumed by the average peer review proceeding, including the hearing provided pursuant to Section 809.2, and a description of any difficulties encountered by either licentiates or facilities in assembling peer review bodies or panels to participate in peer review decisionmaking.

(6) An assessment of the need to amend Section 805 and Sections 809 to 809.8, inclusive, to ensure that they continue to be relevant to the actual conduct of peer review as described in paragraph (1), and to evaluate whether the current reporting requirement is yielding timely and accurate information to aid licensing boards in their responsibility to regulate and discipline healing arts practitioners when necessary, and to assure that peer review bodies function in the best interest of patient care.

(7) Recommendations of additional mechanisms to stimulate the appropriate reporting of peer review actions under Section 805.

(8) Recommendations regarding the Section 809 hearing process to improve its overall effectiveness and efficiency.

(9) An assessment of the role of medical professionals, using professionals who are experts and are actively practicing medicine in this state, to review and investigate for the protection of consumers, allegations of substandard practice or professional misconduct.

(10) An assessment of the process to identify and retain a medical professional with sufficient expertise to review allegations of substandard practice or professional misconduct by a physician and surgeon, if the peer review process is discontinued.

(d) The independent entity shall exercise no authority over the peer review processes of peer review bodies. However, peer review bodies, health care facilities, health care clinics, and health care service plans shall cooperate with the independent entity in providing raw data, information, and case files as requested in a mutually agreeable timeframe.

(e) The case files and other information obtained by the independent entity shall be confidential. The independent entity shall not release the case files or other information it obtains to any individual, agency, or entity, including the board, except as aggregate data, examples, or in the final report submitted to the board and the Legislature, but in no case shall information released under these exemptions be identifiable in any way or associated with, or related to, a specific facility, individual, or peer review body.

(f) Notwithstanding any other provision of law, information obtained by the independent entity from a peer review body or from any other person or entity and information otherwise generated by the independent entity, including, but not limited to, raw data, patient information, case files or records, interviews and records of interviews, proceedings of a peer review body, and analyses or conclusions of the independent entity, shall not be subject to discovery or to a subpoena or a subpoena duces tecum and shall not be admissible as evidence in any court of law in this state. The information described in this subdivision shall be subject to all other confidentiality protections and privileges otherwise provided by law. The independent entity and its employees and contractors shall assert all of the protections for the information described in this subdivision that may apply in order to protect the information from disclosure. However, nothing in this section shall affect provisions of law relating to otherwise admissible material obtainable from sources other than the independent entity.

(g) The independent entity shall report to the peer review body any information it obtains from the peer review body that the independent entity determines should have been reported pursuant to Section 805. The independent entity shall include with the report a clear explanation of the reasons it determined that the information warrants a report under Section 805. If the peer review body agrees with the independent entity's determination, the peer review body shall report the information pursuant to Section 805 without being subject to penalties under subdivision (k) or (*l*) of Section 805, if the peer review body makes the report to the board within 30 days of the date the independent entity reported its determination to the peer review body, unless additional time is required to afford due process or fair hearing rights to the subject of the report as required by Section 805 and Sections 809.1 and following.

(h) The independent entity shall work in cooperation with and under the general oversight of the Executive Director of the Medical Board of California and shall submit a written report with its findings and recommendations to the board and the Legislature no later than July 31, 2008.

(i) Completion of the peer review study pursuant to this section shall be among the highest priorities of the Medical Board of California, and the board shall ensure that it is completed no later than July 31, 2008.

SEC. 18. Section 2026 of the Business and Professions Code is repealed.

SEC. 19. Section 2026 is added to the Business and Professions Code, to read:

2026. The California Research Bureau (CRB) of the California State Library shall study the role of public disclosure in the public protection mandate of the board. The ensuing CRB report shall include, but not be limited to, considering whether the public is adequately informed about physician misconduct by the current laws and regulations providing for disclosure. The study shall present policy options for improving public access. The board shall work cooperatively with the CRB, providing cost-free access and reproduction assistance to the board's records while protecting the identity and privacy of all persons involved in any complaint. The provision of confidential data, information, and case files by the board to the CRB shall not constitute a waiver of any exemption from disclosure or discovery or of any confidentiality protection or privilege otherwise provided by law that is applicable to the data, information, or case files. Data will be presented in aggregate categories. This study shall be commenced as soon as possible and a report to the Legislature completed no later than July 1, 2008.

SEC. 20. Section 2027 of the Business and Professions Code is amended to read:

2027. (a) On or after July 1, 2001, the board shall post on the Internet the following information in its possession, custody, or control regarding licensed physicians and surgeons:

(1) With regard to the status of the license, whether or not the licensee is in good standing, subject to a temporary restraining order (TRO), subject to an interim suspension order (ISO), or subject to any of the enforcement actions set forth in Section 803.1.

(2) With regard to prior discipline, whether or not the licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(3) Any felony convictions reported to the board after January 3, 1991.

(4) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, "current accusation" shall mean an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the Medical Board of California unless an appeal of that decision is pending.

(5) Any malpractice judgment or arbitration award reported to the board after January 1, 1993.

(6) Any hospital disciplinary actions that resulted in the termination or revocation of a licensee's hospital staff privileges for a medical disciplinary cause or reason.

(7) Any misdemeanor conviction that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed.

(8) Appropriate disclaimers and explanatory statements to accompany the above information, including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the board and shall be adopted by regulation.

(9) Any information required to be disclosed pursuant to Section 803.1.

(b) (1) From January 1, 2003, the information described in paragraphs (1) (other than whether or not the licensee is in good standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain posted for a period of 10 years from the date the board obtains possession, custody, or control of the information, and after the end of that period shall be removed from being posted on the board's Internet Web site. Information in the possession, custody, or control of the board prior to January 1, 2003, shall be posted for a period of 10 years from January 1, 2003. Settlement information shall be posted as described in paragraph (2) of subdivision (b) of Section 803.1.

(2) The information described in paragraphs (3) and (6) of subdivision (a) shall not be removed from being posted on the board's Internet Web site. Notwithstanding the provisions of this paragraph, if a licensee's hospital staff privileges are restored and the licensee notifies the board of the restoration, the information pertaining to the termination or revocation of those privileges, as described in paragraph (6) of subdivision (a), shall remain posted for a period of 10 years from the restoration date of the privileges, and at the end of that period shall be removed from being posted on the board's Internet Web site.

(c) The board shall provide links to other Web sites on the Internet that provide information on board certifications that meet the requirements of subdivision (b) of Section 651. The board may provide links to other Web sites on the Internet that provide information on health care service plans, health insurers, hospitals, or other facilities. The board may also provide links to any other sites that would provide information on the affiliations of licensed physicians and surgeons.

SEC. 21. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to the licensure of physicians and surgeons:

(a) Each applicant for a certificate based upon a national board diplomate certificate, each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the Division of Licensing by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any. The initial license fee shall be seven hundred ninety dollars ($790). An applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(d) The biennial renewal fee shall be seven hundred ninety dollars ($790).

(e) Notwithstanding subdivisions (c) and (d) and to ensure that subdivision (k) of Section 125.3 is revenue neutral with regard to the board, the board may, by regulation, increase the amount of the initial license fee and the biennial renewal fee by an amount required to recover both of the following:

(1) The average amount received by the board during the three fiscal years immediately preceding July 1, 2006, as reimbursement for the reasonable costs of investigation and enforcement proceedings pursuant to Section 125.3.

(2) Any increase in the amount of investigation and enforcement costs incurred by the board after January 1, 2006, that exceeds the average costs expended for investigation and enforcement costs during the three fiscal years immediately preceding July 1, 2006. When calculating the amount of costs for services for which the board paid an hourly rate, the board shall use the average number of hours for which the board paid for those costs over these prior three fiscal years, multiplied by the hourly rate paid by the board for those costs as of July 1, 2005. Beginning January 1, 2009, the board shall instead use the average number of hours for which it paid for those costs over the three-year period of fiscal years 2005–06, 2006–07, and 2007–08, multiplied by the hourly rate paid by the board for those costs as of July 1, 2005. In calculating the increase in the amount of investigation and enforcement costs, the board shall include only those costs for which it was eligible to obtain reimbursement under Section 125.3 and shall not include probation monitoring costs and disciplinary costs, including those associated with the citation and

fine process and those required to implement subdivision (b) of Section 12529 of the Government Code.

(f) Notwithstanding Section 163.5, the delinquency fee shall be 10 percent of the biennial renewal fee.

(g) The duplicate certificate and endorsement fees shall each be fifty dollars ($50), and the certification and letter of good standing fees shall each be ten dollars ($10).

(h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California equal to approximately two months' operating expenditures.

(i) Not later than July 1, 2007, the Bureau of State Audits (BSA) shall conduct a review of the board's financial status, its financial projections and historical projections, including, but not limited to, its projections related to expenses, revenues, and reserves. The BSA shall, on the basis of the review, report to the Joint Legislative Audit Committee before January 1, 2008, on any adjustment to the amount of the licensure fee that is required to maintain the reserve amount in the Contingent Fund of the Medical Board of California pursuant to subdivision (h) of Section 2435, and whether a refund of any excess revenue should be made to licentiates.

SEC. 22. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a

lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

(c) The Medical Board of California, the Department of Consumer Affairs, and the Office of the Attorney General shall, if necessary, enter into an interagency agreement to implement this section.

(d) This section does not affect the requirements of Section 12529.5 as applied to the Medical Board of California where complaints that have not been assigned to a field office for investigation are concerned.

(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 224

An act to amend Sections 214, 214.8, 254.5, 254.6, and 1840 of the Revenue and Taxation Code, and to amend Section 2 of Chapter 48 of the Statutes of 1987, relating to taxation.

[Approved by Governor September 7, 2006. Filed with Secretary of State September 7, 2006.]

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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations, limited liability companies, or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation, including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses. As used herein, operating expenses include

depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(A) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either or both of the following described activities if that use is occasional:

(i) The owner conducts fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the owner and are used to further the exempt activity of the owner.

(ii) The owner permits any other organization that meets all of the requirements of this subdivision, other than ownership of the property, to conduct fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the organization, are not subject to the tax on unrelated business taxable income that is imposed by Section 511 of the Internal Revenue Code, and are used to further the exempt activity of the organization.

(B) For purposes of subparagraph (A):

(i) "Occasional use" means use of the property on an irregular or intermittent basis by the qualifying owner or any other qualifying organization described in clause (ii) of subparagraph (A) that is incidental to the primary activities of the owner or the other organization.

(ii) "Fundraising activities" means both activities involving the direct solicitation of money or other property and the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited.

(C) Subparagraph (A) shall have no application in determining whether paragraph (3) has been satisfied unless the owner of the property and any other organization using the property as provided in subparagraph (A) have filed with the assessor a valid organizational clearance certificate issued pursuant to Section 254.6.

(D) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization's primary activities, are not fundraising meetings or activities as defined in subparagraph (B), are held no more than once per week, and the other

organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of this subdivision. The owner or the other organization also shall file with the assessor a copy of a valid, unrevoked letter or ruling from the Internal Revenue Service or the Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

(E) Nothing in subparagraph (A), (B), (C), or (D) shall be construed to either enlarge or restrict the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution, or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution that, in addition to complying with the foregoing requirements for the exemption of charitable organizations in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research, and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law, and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, limited liability companies, or corporations, which property and funds, foundations, limited liability companies, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, limited liability companies, or corporations, which property and funds, foundations, limited liability companies, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station, and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, limited liability companies, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

The amendment of this paragraph made by Chapter 1102 of the Statutes of 1984 does not constitute a change in, but is declaratory of, existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or that is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property that would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property that is equal to the percentage that the number of low- and moderate-income elderly and handicapped families occupying the property represents of the total number of families occupying the property.

As used in this subdivision, "low and moderate income" has the same meaning as the term "persons and families of low or moderate income" as defined by Section 50093 of the Health and Safety Code.

(g) (1) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, meeting all of the requirements of this section, or by veterans'

organizations, as described in Section 215.1, meeting all the requirements of paragraphs (1) to (7), inclusive, of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section and shall be entitled to a partial exemption equal to that percentage of the value of the property that the portion of the property serving lower income households represents of the total property in any year in which either of the following criteria applies:

(A) The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax-exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. The total exemption amount allowed under this subdivision to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this subparagraph, may not exceed twenty thousand dollars ($20,000) of tax.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000–01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project's usage and that provides that the units designated for use by lower income households are continuously available to or occupied by lower income households at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.

(ii) In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision

specified in clause (i) shall be contained in an enforceable and verifiable agreement with a public agency, or in a recorded deed restriction to which the limited partnership certifies.

(B) Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(3) As used in this subdivision, "lower income households" has the same meaning as the term "lower income households" as defined by Section 50079.5 of the Health and Safety Code.

(h) Property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. Property that otherwise would be exempt pursuant to this subdivision, except that it includes housing and related facilities for other than an emergency or temporary shelter, shall be entitled to a partial exemption.

As used in this subdivision, "emergency or temporary shelter" means a facility that would be eligible for funding pursuant to Chapter 11 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code.

(i) Property used exclusively for housing and related facilities for employees of religious, charitable, scientific, or hospital organizations that meet all the requirements of subdivision (a) and owned and operated by funds, foundations, limited liability companies, or corporations that meet all the requirements of subdivision (a) shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section to the extent the residential use of the property is institutionally necessary for the operation of the organization.

(j) For purposes of this section, charitable purposes include educational purposes. For purposes of this subdivision, "educational purposes" means those educational purposes and activities for the benefit of the community as a whole or an unascertainable and indefinite portion thereof, and do not include those educational purposes and activities that are primarily for the benefit of an organization's shareholders. Educational activities include the study of relevant information, the dissemination of that information to interested members of the general public, and the participation of interested members of the general public.

(k) In the case of property used exclusively for the exempt purposes specified in this section, owned and operated by limited liability

companies that are organized and operated for those purposes, the State Board of Equalization shall adopt regulations to specify the ownership, organizational, and operational requirements for those companies to qualify for the exemption provided by this section.

(*l*) The amendments made by Chapter 354 of the Statutes of 2004 shall apply with respect to lien dates occurring on and after January 1, 2005.

SEC. 2. Section 214.8 of the Revenue and Taxation Code is amended to read:

214.8. (a) Except as provided in Sections 213.7 and 231, and as provided in subdivision (g) of Section 214 with respect to veterans' organizations, the "welfare exemption" shall not be granted to any organization unless it is qualified as an exempt organization under either Section 23701d of this code or Section 501(c)(3) of the Internal Revenue Code. This section shall not be construed to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(3) of the Internal Revenue Code of 1954 but not otherwise qualified for the "welfare exemption" under other provisions of this code.

The exemption for veterans' organizations shall not be granted to any organization unless it is qualified as an exempt organization under either Section 23701f or 23701w of this code or under Section 501(c)(4) or 501(c)(19) of the Internal Revenue Code. This section shall not be construed to enlarge the "veterans' organization exemption" to apply to organizations qualified under Section 501(c)(4) or 501(c)(19) of the Internal Revenue Code but not otherwise qualified for the "veterans' organization exemption" under other provisions of this code.

(b) For purposes of subdivision (a), an organization shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor a valid organizational clearance certificate issued pursuant to Section 254.6.

(c) (1) For purposes of subdivision (a), a limited liability company wholly owned by one or more qualifying organizations, which may include governmental entities and nonprofit organizations, that are exempt under Section 23701d or under Section 501(c)(3) of the Internal Revenue Code shall qualify as an exempt organization.

(2) In the case of a limited liability company that does not have a valid unrevoked letter from the Franchise Tax Board or the Internal Revenue Service, the limited liability company may not be deemed to be qualified as an exempt organization unless each nonprofit tax-exempt member of the limited liability company files with the board a copy of a valid, unrevoked letter or ruling from either the Franchise Tax Board or the Internal Revenue Service that states that the organization qualifies

as an exempt organization under the appropriate provisions of the Revenue and Taxation Code or the Internal Revenue Code.

(d) The amendments made by the act adding this subdivision shall apply with respect to lien dates occurring on and after January 1, 2005.

SEC. 3. Section 254.5 of the Revenue and Taxation Code is amended to read:

254.5. (a) Claims for the welfare exemption and the veterans' organization exemption shall be filed on or before February 15 of each year with the assessor.

The assessor may not approve a property tax exemption claim until the claimant has been issued a valid organizational clearance certificate pursuant to Section 254.6. Financial statements shall be submitted only if requested in writing by the assessor.

(b) (1) The assessor shall review all claims for the welfare exemption to ascertain whether the property on which the exemption is claimed meets the requirements of Section 214. The assessor shall also review all claims for the veterans' organization exemption to ascertain whether the property on which the exemption is claimed meets the requirements of Section 215.1. In this connection, the assessor shall consider, among other matters, whether:

(A) Any capital investment of the owner or operator for expansion of a physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

(B) The property on which the exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(2) The assessor may institute an audit or verification of the operations of the owner or operator of the applicant's property to ascertain whether both the owner and operator meet the requirements of Section 214.

(c) (1) The assessor may deny a claim for the welfare exemption on a property, notwithstanding that the claimant has been granted an organizational clearance certificate by the board.

(2) If the assessor finds that the claimant's property is ineligible for the welfare exemption or the veterans' organization exemption, the assessor shall notify the claimant in writing of all of the following:

(A) That the property is ineligible for the exemption.

(B) That the claimant may seek a refund of property taxes paid by filing a refund claim with the county.

(C) That if the claimant's refund claim with the county is denied, the claimant may file a refund action in superior court.

(d) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to Section 214.15

or Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity or by a nonprofit corporation described in Section 214.15 for its interest and benefit. The applicant shall notify the assessor on or before February 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

Prior to the lien date, the assessor shall annually mail a notice to every applicant relieved of the requirement of filing an annual application by this subdivision.

The notice shall be in a form and contain that information that the board may prescribe, and shall set forth the circumstances under which the property may no longer be eligible for exemption, and advise the applicant of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall include a card that is to be returned to the assessor by any applicant desiring to maintain eligibility for the welfare exemption under Section 214.15 or Section 231. The card shall be in the following form:

To all persons who have received a welfare exemption under Section 214.15 or Section 231 of the Revenue and Taxation Code for the ____ fiscal year.

Question: Will the property to which the exemption applies in the ____ fiscal year continue to be used exclusively by government or by an organization as described in Section 214.15 for its interest and benefit in the ____ fiscal year?

YES ___ NO ___

Signature: _____

Title: _____

Failure to return this card does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in onsite inspection to verify exempt activity.

(e) Upon any indication that a welfare exemption or veterans' organization exemption on the property has been incorrectly granted, the assessor shall redetermine eligibility for the exemption. If the assessor determines that the property, or any portion thereof, is no longer eligible

for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for the exemption.

(f) If a welfare exemption or veterans' organization exemption on the property has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but may not exceed two hundred fifty dollars ($250).

(g) Pursuant to Section 15640 of the Government Code, the board shall review the assessor's administration of the welfare exemption and the veterans' organization exemption as part of the board's survey of the county assessment roll to ensure the proper administration of the exemption.

SEC. 4. Section 254.6 of the Revenue and Taxation Code is amended to read:

254.6. (a) An organization that intends to claim the welfare exemption or veterans' organization exemption shall file with the State Board of Equalization a claim for an organizational clearance certificate.

(b) The board staff shall review each claim for an organizational clearance certificate for the welfare exemption to ascertain whether the organization meets the requirements of Section 214 and shall issue a certificate to a claimant that meets these requirements. The board staff shall also review each claim for an organizational clearance certificate for the veterans' organization exemption to ascertain whether the organization meets the requirements of Section 215.1 and shall issue a certificate to a claimant that meets these requirements. In this connection, the board staff shall consider, among other matters, whether:

(1) The services and expenses of the owner or operator (including salaries) are excessive, based upon like services and salaries in comparable public or private institutions.

(2) The operations of the owner or operator, either directly or indirectly, materially enhance the private gain of any individual or individuals.

(c) Any claim of any organization that files for an organizational clearance certificate for the first time shall be accompanied by the claimant's corporate identification number, mailing address, and all of the following documents:

(1) A certified copy of the financial statements of the organization.

(2) A certified copy of the articles of incorporation and any amendments thereto, or in the case of any noncorporate fund or foundation, its bylaws, articles of association, constitution, or regulations and any amendments thereto.

(3) A copy of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, that states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

(d) (1) If the board staff determines that a claimant is not eligible for an organizational clearance certificate, the board shall notify the claimant of the ineligibility.

(2) The claimant may file an appeal of the board staff's finding of ineligibility with the board within 60 days of the date of mailing of the notice of ineligibility. The appeal of the board staff's finding shall be in writing and shall state the specific grounds upon which the appeal is founded.

(3) The board shall conduct a hearing on the appeal in accordance with any rules of notice, procedure, and briefing as the board shall prescribe. The parties to the hearing or proceeding shall be the board staff and the claimant appealing the finding of ineligibility. The board staff and the claimant may agree in writing to submit the matter to the board for a decision without a hearing. The board shall provide written findings and conclusions or a written decision to support its decision.

(e) (1) Once granted, an organizational clearance certificate for the welfare exemption remains valid until the board staff determines that the organization no longer meets the requirements of Section 214. Once granted, an organizational clearance certificate for the veterans' organization exemption remains valid until the board staff determines that the organization no longer meets the requirements of Section 215.1.

(2) If the board staff determines that the organization no longer meets the requirements for an organizational clearance certificate, the board staff shall revoke the certificate and notify the claimant and each county assessor of the revocation.

(3) The organization may file an appeal of the board staff's revocation with the board within 60 days of the date of mailing of the notice revocation. The appeal of the revocation shall be in writing and shall state the specific grounds upon which the appeal is founded.

(4) The board shall conduct a hearing on the appeal in accordance with any rules of notice, procedure, and briefing as the board shall prescribe. The parties to the hearing or proceeding shall be the board staff and the claimant appealing the finding of ineligibility. The board staff and the claimant may agree in writing to submit the matter to the board for decision without hearing. The board shall provide written findings and conclusions or a written decision to support its decision.

(f) Pursuant to Section 15618 of the Government Code, the board may institute an audit or verification of an organization to ascertain whether the organization meets the requirements of Section 214.

SEC. 5. Section 1840 of the Revenue and Taxation Code is amended to read:

1840. If any county, city and county, or municipal corporation desires to secure a review, equalization, or adjustment of the assessment of its property by the board pursuant to subdivision (g) of Section 11 of Article XIII of the California Constitution, it shall apply to the board therefor in writing on or before July 20, or within two weeks after the completion and delivery by the assessor of the local roll containing the assessment to the auditor as provided in Section 617, whichever is the later. If the assessment objected to is one made outside the regular period for such assessments, the application for review shall be filed with the board within 60 days from the date the tax bill is mailed to the assessee.

Every application shall show the facts claimed to require action of the board, and a copy thereof shall be filed with the assessor whose assessment is questioned. Upon receipt of a timely application, the board shall afford the applicant notice and a hearing in accordance with such rules and regulations as the board may prescribe. The failure to file a timely application shall bar the applicant from relief under subdivision (g) of Section 11 of Article XIII or this section.

SEC. 6. Section 2 of Chapter 48 of the Statutes of 1987 is amended to read:

Sec. 2. (a) It is the intent of the Legislature that the provisions of Section 63.1 of the Revenue and Taxation Code shall be liberally construed in order to carry out the intent of both of the following:

(1) Proposition 58 on the November 4, 1986, general election ballot to exclude from change in ownership purchases or transfers between parents and their children described therein.

(2) Proposition 193 on the March 26, 1996, primary election ballot to exclude from change in ownership purchases or transfers between grandparents and their grandchildren described therein.

(b) Specifically, transfers of real property from a corporation, partnership, trust, or other legal entity to an eligible transferor or transferors, where the latter are the sole owner or owners of the entity or are the sole beneficial owner or owners of the property, shall be fully recognized and shall not be ignored or given less than full recognition under a substance-over-form or step-transaction doctrine, where the sole purpose of the transfer is to permit an immediate retransfer from an eligible transferor or transferors to an eligible transferee or transferees which qualifies for the exclusion from change in ownership provided by Section 63.1. Further, transfers of real property between eligible

transferors and eligible transferees shall also be fully recognized when the transfers are immediately followed by a transfer from the eligible transferee or eligible transferees to a corporation, partnership, trust, or other legal entity where the transferee or transferees are the sole owner or owners of the entity or are the sole beneficial owner or owners of the property, if the transfer between eligible transferors and eligible transferees satisfies the requirements of Section 63.1.

(c) Except as provided herein, this section shall not be construed as an expression of intent on the part of the Legislature disapproving in principle the appropriate application of the substance-over-form or step-transaction doctrine.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 225

An act to amend Section 782 of the Evidence Code, relating to testimony.

[Approved by Governor September 8, 2006. Filed with Secretary of State September 8, 2006.]

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

SECTION 1. Section 782 of the Evidence Code is amended to read:

782. (a) In any of the circumstances described in subdivision (c), if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness under Section 780, the following procedure shall be followed:

(1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.

(2) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated. The affidavit shall be filed under seal and only unsealed by the court to determine if the offer of proof is sufficient to order a hearing pursuant to paragraph (3). After that determination, the affidavit shall be resealed by the court.

(3) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

(4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant pursuant to Section 780, and is not inadmissible pursuant to Section 352 of this code, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(5) An affidavit resealed by the court pursuant to paragraph (2) shall remain sealed, unless the defendant raises an issue on appeal or collateral review relating to the offer of proof contained in the sealed document. If the defendant raises that issue on appeal, the court shall allow the Attorney General and appellate counsel for the defendant access to the sealed affidavit. If the issue is raised on collateral review, the court shall allow the district attorney and defendant's counsel access to the sealed affidavit. The use of the information contained in the affidavit shall be limited solely to the pending proceeding.

(b) As used in this section, "complaining witness" means:

(1) The alleged victim of the crime charged, the prosecution of which is subject to this section, pursuant to paragraph (1) of subdivision (c).

(2) An alleged victim offering testimony pursuant to paragraph (2) or paragraph (3) of subdivision (c).

(c) The procedure provided by subdivision (a) shall apply in any of the following:

(1) In a prosecution under Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289 of the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit any crime defined in any of those sections, except if the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4, or in a state prison, as defined in Section 4504.

(2) When an alleged victim testifies pursuant to subdivision (b) of Section 1101 as a victim of a crime listed in Section 243.4, 261, 261.5, 269, 285, 286, 288, 288a, 288.5, 289, 314, or 647.6 of the Penal Code, except if the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4 of the Penal Code, or in a state prison, as defined in Section 4504 of the Penal Code.

(3) When an alleged victim of a sexual offense testifies pursuant to Section 1108, except if the crime is alleged to have occurred in a local

detention facility, as defined in Section 6031.4 of the Penal Code, or in a state prison, as defined in Section 4504 of the Penal Code.

CHAPTER 226

An act to add Section 53153.5 to the Government Code, relating to emergency services.

[Approved by Governor September 9, 2006. Filed with Secretary of State September 9, 2006.]

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

SECTION 1. Section 53153.5 is added to the Government Code, to read:

53153.5. (a) Any person 18 years of age or older who is convicted of making a false police report, in violation of Section 148.3 of the Penal Code, and that false police report proximately causes an appropriate emergency response by a public agency, is liable for the expense of the emergency response made by the responding public agency to the incident.

(b) A public agency shall be entitled to satisfaction of any judgment for expenses pursuant to this article after any victims or other persons injured by the incident are compensated for their injuries and any liens held by a medical provider are satisfied.

CHAPTER 227

An act to amend Section 148.3 of the Penal Code, relating to crime.

[Approved by Governor September 9, 2006. Filed with Secretary of State September 9, 2006.]

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

SECTION 1. Section 148.3 of the Penal Code is amended to read:

148.3. (a) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that the report is false, is guilty of a misdemeanor and upon conviction thereof shall be punishable by imprisonment in the county

jail for a period not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(b) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, and who knows that the report is false, and who knows or should know that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison, or by a fine of not more than ten thousand dollars ($10,000), or by both that imprisonment and fine.

(c) "Emergency" as used in this section means any condition that results in, or could result in, the response of a public official in an authorized emergency vehicle, aircraft, or vessel, any condition that jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, vehicle, or of any other place that any individual may enter, or any situation that results in or could result in activation of the Emergency Alert System pursuant to Section 8594 of the Government Code. An activation or possible activation of the Emergency Alert System pursuant to Section 8594 of the Government Code shall not constitute an "emergency" for purposes of this section if it occurs as the result of a report made or caused to be made by a parent, guardian, or lawful custodian of a child that is based on a good faith belief that the child is missing.

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 228

An act to amend Section 19.8 of, and to add Section 490.7 to, the Penal Code, relating to crime.

[Approved by Governor September 10, 2006. Filed with Secretary of State September 10, 2006.]

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

SECTION 1. Section 19.8 of the Penal Code is amended to read:

19.8. The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 652, and 853.7 of this code; subdivision (n) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 21672, 25658.5, 25661, and 25662 of the Business and Professions Code; Section 27204 of the Government Code; subdivision (c) of Section 23109 and Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense which the Legislature makes subject to subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for a violation of any of those sections, any violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars ($250).

Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for any offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension, revocation, or denial of any license, or for the revocation of probation or parole of the person convicted.

SEC. 2. Section 490.7 is added to the Penal Code, to read:

490.7. (a) The Legislature finds that free newspapers provide a key source of information to the public, in many cases providing an important alternative to the news and ideas expressed in other local media sources. The Legislature further finds that the unauthorized taking of multiple copies of free newspapers, whether done to sell them to recycling centers, to injure a business competitor, to deprive others of the opportunity to read them, or for any other reason, injures the rights of readers, writers, publishers, and advertisers, and impoverishes the marketplace of ideas in California.

(b) No person shall take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper if done with the intent to do one or more of the following:

(1) Recycle the newspapers for cash or other payment.

(2) Sell or barter the newspaper.

(3) Deprive others of the opportunity to read or enjoy the newspaper.

(4) Harm a business competitor.

(c) This section does not apply to the owner or operator of the newsrack in which the copies are placed, the owner or operator of the property on which the newsrack is placed, the publisher, the printer, the distributor, the deliverer of the newspaper, or to any advertiser in that issue, or to any other person who has the express permission to do so from any of these entities.

(d) Any newspaper publisher may provide express permission to take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper by indicating on the newsrack or in the newspaper itself, that people may take a greater number of copies if they wish.

(e) A first violation of subdivision (b) shall be an infraction punishable by a fine not exceeding two hundred fifty dollars ($250). A second or subsequent violation shall be punishable as an infraction or a misdemeanor. A misdemeanor conviction under this section is punishable by a fine not exceeding five hundred dollars ($500), imprisonment of up to 10 days in a county jail, or by both that fine and imprisonment. The court may order community service in lieu of the punishment otherwise provided for an infraction or misdemeanor in the amount of 20 hours for an infraction, and 40 hours for a misdemeanor. A misdemeanor conviction under this section shall not constitute a conviction for petty theft.

(f) This section shall not be construed to repeal, modify, or weaken any existing legal prohibitions against the taking of private property.

(g) For purposes of this section, an issue is current if no more than half of the period of time until the distribution of the next issue has passed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 229

An act relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2006. Filed with Secretary of State September 12, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve those provisions of an agreement pursuant to Section

3517 of the Government Code entered into by the state employer and State Bargaining Unit 8, California Department of Forestry Firefighters, on May 12, 2006, that require the expenditure of funds.

SEC. 2. The provisions of the addendum to the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 8 and that require the expenditure of funds, are hereby approved for the purposes of subdivision (b) of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the addendum to the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions, or either party may reopen negotiations on all or part of the addendum to the memorandum of understanding pursuant to Section 3517.7 of the Government Code.

SEC. 4. Notwithstanding subdivision (b) of Section 3517.6 of the Government Code, the provisions of the addendum to the memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the addendum to the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. (a) The sum of twenty-three million six hundred sixty-seven thousand dollars ($23,667,000) is hereby appropriated from the General Fund to the Department of Forestry and Fire Protection for expenditure for the 2006–07 fiscal year for employee compensation in augmentation of Item 3540-001-0001 of Section 2.00 of the Budget Act of 2006 in accordance with the following schedule:

(1) Twenty-three million six hundred sixty-seven thousand dollars ($23,667,000) to Item 3540-001-0001, Schedule (2) 11 – Fire Protection.

(b) The sum of twelve million six hundred twenty-one thousand dollars ($12,621,000) is hereby reduced from Item 3540-006-0001 of Section 2.00 of the Budget Act of 2006.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible for the 2005–06 fiscal year, and thereby facilitate the orderly

administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 230

An act to add Sections 1182.12 and 1182.13 to the Labor Code, relating to employment.

[Approved by Governor September 12, 2006. Filed with Secretary of State September 12, 2006.]

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

SECTION 1. Section 1182.12 is added to the Labor Code, to read:

1182.12. Notwithstanding any other provision of this part, on and after January 1, 2007, the minimum wage for all industries shall be not less than seven dollars and fifty cents ($7.50) per hour, and on and after January 1, 2008, the minimum wage for all industries shall be not less than eight dollars ($8.00) per hour.

SEC. 2. Section 1182.13 is added to the Labor Code, to read:

1182.13. (a) The Department of Industrial Relations shall adjust upwards the permissible meals and lodging credits by the same percentage as the increase in the minimum wage made pursuant to Section 1182.12.

(b) The Department of Industrial Relations shall amend and republish the Industrial Welfare Commission's wage orders to be consistent with this section and Section 1182.12. The department shall make no other changes to the wage orders of the Industrial Welfare Commission that are in existence on the effective date of this section. The department shall meet the requirements set forth in Section 1183.

(c) Every employer that is subject to an amended republished order under this section shall post a copy of the order and keep it posted in a conspicuous location frequented by employees during the hours of the workday as required by Section 1183.

(d) Wage orders that are amended and republished as required under this section shall be final and conclusive for all purposes and dispositive of all pending petitions before the Industrial Welfare Commission as of the effective date of the act adding this section. Any amendment and republication pursuant to this section shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of

the Government Code), and from the procedures set forth in Sections 1177, 1178.5, 1181, 1182, and 1182.1.

CHAPTER 231

An act relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2006. Filed with Secretary of State September 12, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve those provisions of an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Unit 3 on March 10, 2006, that require the expenditure of funds.

SEC. 2. The provisions of the addendum to the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 3 and that require the expenditure of funds, are hereby approved for the purposes of subdivision (b) of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the addendum to the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect immediately, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions, or either party may reopen negotiations on all or part of the addendum to the memorandum of understanding pursuant to Section 3517.7 of the Government Code.

SEC. 4. Notwithstanding subdivision (b) of Section 3517.6 of the Government Code, the provisions of the addendum to the memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the addendum to the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

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

In order for the provisions of this act to be applicable as soon as possible in the 2005–06 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 232

An act relating to small business, and making an appropriation therefor.

[Approved by Governor September 12, 2006. Filed with Secretary of State September 12, 2006.]

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

SECTION 1. The Legislature hereby finds and declares:

(a) Small business remains the backbone of the state's economy. Regulatory burdens and costs continue to be one of the major complaints of small businesses.

(b) The federal Small Business Administration began analyzing the cost and burdens of federal regulations on small businesses in 1995. The most recent update issued September 19, 2005, found that "small businesses continue to bear a disproportionate share of the federal regulatory burden." The report found that the annual cost of federal regulations in the United States totaled $1.1 trillion in 2004. It also found the costs of federal regulations on firms with fewer than 20 employees is $7,647. For small manufacturers this figure is at least double the compliance cost for medium-sized and large firms.

(c) There is no similar analysis done on state regulatory costs. Understanding the cost impact of state regulations would help policymakers reduce or design more cost-effective regulatory approaches that achieve desired policy objectives while placing the least burden on the regulated industry.

SEC. 2. The Office of Small Business Advocate shall do all of the following:

(a) Commission a study of the costs of state regulations on small businesses, which shall, among other things, do all of the following:

(1) Parallel, to the extent feasible and practical, the scope and study on the impact of regulatory costs on small firms conducted by the federal Small Business Administration.

(2) Examine successful models from other states on identifying regulatory costs and developing potential alternative approaches that meet the same regulatory objectives, but are less burdensome on small businesses.

(3) Make recommendations on how California's regulatory process can more effectively assess a regulation's impact on small businesses, including its cumulative impact, and methods for developing policy-appropriate alternatives.

(4) Avoid recommendations that could diminish wage and hour, social insurance, or health and safety protections for California workers.

(b) Convene a small business advisory committee to provide advice on the study required pursuant to subdivision (a). The committee shall include, but not be limited to, representatives from small business associations representing a cross section of the small business community.

(c) No later than October 1, 2007, submit the completed study required pursuant to subdivision (a), including recommendations, to the Department of Finance, the Speaker of the Assembly, the Senate President pro Tempore, and chairs of the Assembly Committee on Jobs, Economic Development, and the Economy and the Senate Committee on Government Modernization, Efficiency and Accountability.

(d) The sum of eighty-five thousand dollars ($85,000) is hereby appropriated from the General Fund to the Office of Small Business Advocate for the 2006–07 fiscal year to be used for purposes of this act. The Office of Small Business Advocate may carry forward any unused funds into the 2007–08 fiscal year for the purposes of this act.

CHAPTER 233

An act to amend Sections 65054, 65054.1, and 65054.3 of, and to add Section 65054.5 to, the Government Code, relating to business disaster preparedness, and making an appropriation therefor.

[Approved by Governor September 12, 2006. Filed with Secretary of State September 12, 2006.]

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

SECTION 1. Section 65054 of the Government Code is amended to read:

65054. (a) The Legislature finds and declares that it is in the public interest to aid, counsel, assist, and protect, insofar as is possible, the

interests of small business concerns in order to preserve free competitive enterprise and maintain a healthy state economy.

(b) In order to advocate the causes of small business and to provide small businesses with the information they need to survive in the marketplace, there is created within the Office of Planning and Research the Office of Small Business Advocate.

(c) The advocate shall post on its Internet Web site the name and telephone number of the small business liaison designated pursuant to Section 14846.

SEC. 2. Section 65054.1 of the Government Code is amended to read:

65054.1. The following definitions apply to this article, unless otherwise indicated:

(a) "Advocate" means the California Small Business Advocate who is also the Director of the Office of Small Business Advocate.

(b) "Director" means the Director of the Office of Small Business Advocate.

(c) "Office" means the Office of Small Business Advocate.

SEC. 3. Section 65054.3 of the Government Code is amended to read:

65054.3. (a) The Director of the Office of Small Business Advocate shall be appointed by, and shall serve at the pleasure of, the Governor.

(b) The Governor shall appoint the employees that are needed to accomplish the purposes of Section 65054, this section, and Section 65054.4.

(c) The duties and functions of the advocate shall include all of the following:

(1) Serve as the principal advocate in the state on behalf of small businesses, including, but not limited to, advisory participation in the consideration of all legislation and administrative regulations that affect small businesses, and advocacy on state policy and programs related to small businesses on disaster preparedness and recovery including providing technical assistance.

(2) Represent the views and interests of small businesses before other state agencies whose policies and activities may affect small business.

(3) Enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by state government that are of benefit to small businesses, and information on how small businesses can participate in, or make use of, those programs and services.

(4) Issue a report every two years evaluating the efforts of state agencies and, where appropriate, specific departments that significantly

regulate small businesses to assist minority and other small business enterprises, and making recommendations that may be appropriate to assist the development and strengthening of minority and other small business enterprises.

(5) Consult with experts and authorities in the fields of small business investment, venture capital investment, and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest.

(6) Determine the desirability of developing a set of rational, objective criteria to be used to define small business, and develop that criteria, if appropriate.

(7) Seek the assistance and cooperation of all state agencies and departments providing services to, or affecting, small business, including the small business liaison designated pursuant to Section 14846, to ensure coordination of state efforts.

(8) Receive and respond to complaints from small businesses concerning the actions of state agencies and the operative effects of state laws and regulations adversely affecting those businesses.

(9) Counsel small businesses on how to resolve questions and problems concerning the relationship of small business to state government.

(10) Maintain, publicize, and distribute an annual list of persons serving as small business ombudsmen throughout state government.

SEC. 4. Section 65054.5 is added to the Government Code, to read:

65054.5. In addition to its other responsibilities under this article, the advocate shall do the following:

(a) Develop on its Internet Web site, and update as necessary, a handbook about emergency preparedness, responses to emergencies, and recovery strategies for small businesses.

(b) Conduct, no later than July 1, 2008, at least three public meetings, and one public meeting every other year thereafter, to share best practices for small business disaster preparedness. The meetings shall be held in consultation with regional and statewide small business organizations and shall take place in different locations throughout the state.

SEC. 5. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Office of Small Business Advocate for the purposes of this act.

CHAPTER 234

An act to add Section 11541.5 to, and to add Article 14 (commencing with Section 11148) to Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, relating to small business development.

[Approved by Governor September 12, 2006. Filed with Secretary of State September 12, 2006.]

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

SECTION 1. Article 14 (commencing with Section 11148) is added to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 14. Small Business Liaisons

11148. (a) It is the intent of the Legislature in enacting this article to assist small businesses in this state in complying with regulatory standards designed to protect the public.

(b) It is the further intent of the Legislature:

(1) That, to improve compliance results, information be provided by regulatory agencies by printed material or electronically, including at each agency's Internet Web site, to all small businesses, as defined for that purpose, that would state in clear, plain language the actions required to comply with the regulation.

(2) That each agency that significantly regulates small business designate at least one individual to serve as the small business liaison with the role and responsibility of ombudsman for that agency.

11148.5. (a) Each state agency that significantly regulates small business or that significantly impacts small business shall designate at least one person who shall serve as a small business liaison. The agency shall utilize existing personnel and resources to perform the duties of small business liaison.

(b) Each state agency that significantly regulates small business or that significantly impacts small business shall widely publicize the position of small business liaison in appropriate agency publications and on the agency's Web site if the agency has a Web site.

(c) The small business liaison shall be responsible for all of the following:

(1) Receiving and responding to complaints received by the agency from small businesses.

(2) Providing technical advice and assisting small businesses in resolving problems and questions regarding compliance with the agency's regulations and relevant statutes.

(3) Reporting small business concerns and, where appropriate, reporting recommendations to the agency secretary or to the agency head, as defined in Section 11405.50.

(4) Reviewing and updating, on a semiannual basis, content on the agency Web site that is accessible through the small business link provided on the State of California Internet portal pursuant to Section 11541.5.

(5) Assisting the agency secretary, department director, or executive officer, as applicable, in ensuring that the procurement and contracting processes of the applicable entity are administered in order to meet or exceed the 25 percent small business participation goal, and developing and sharing innovative procurement and contracting practices from the public and private sectors to increase opportunities for small businesses.

(d) The small business liaison shall not advocate for or against the adoption, amendment, or repeal of any regulation or intervene in any pending investigation or enforcement action.

(e) For purposes of this section, "small business" has the same meaning as set forth in Section 14837.

SEC. 2. Section 11541.5 is added to the Government Code, to read:

11541.5. (a) The Department of Technology Services shall create a link to state agency Web sites at the State of California Internet portal specifically for the use of small businesses, designed to assist entrepreneurs and small business owners in accessing information regarding startup requirements and regulatory compliance applicable to the particular business.

(b) For purposes of this section, "small business" has the same meaning as set forth in Section 14837.

CHAPTER 235

An act to add Section 49452.7 to the Education Code, relating to diabetes screening.

[Approved by Governor September 13, 2006. Filed with Secretary of State September 13, 2006.]

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

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

(1) The State of California has the second highest rate of overweight and low-income children in the nation.

(2) Since the early 1970s the childhood obesity rate has more than doubled for preschool children, aged two to five years, inclusive, and for adolescents, aged 12 to 19 years, inclusive, and it has more than tripled for children aged 6 to 11 years, inclusive.

(3) The average weight for a 10-year-old boy in 1963 was 74.2 pounds, and by 2002, it was nearly 85 pounds. The average weight for a 10-year-old girl in 1963 was 77.4 pounds, and by 2002, it was nearly 88 pounds.

(4) African-American, Hispanic, and Native American adolescents have higher rates of obesity than the rest of the population. Up to 24 percent of African-American and Hispanic children are above the 95th percentile in weight.

(5) Fifty percent of overweight children and teens remain overweight as adults.

(6) Childhood obesity has been linked to diabetes, hypertension, and heart disease. Type 2 diabetes, which until recently affected only adults, now affects a growing number of children and accounts for almost 50 percent of new diabetes cases among children in some communities in the nation.

(7) Diabetes is the sixth leading cause of death in the United States and is associated with several health risks. These health risks include heart disease and stroke, high blood pressure, kidney disease, nervous system damage, gum disease, and blindness.

(8) Early detection and proper diagnosis of type 2 diabetes among adolescents enables teens to be treated at a stage where long-term health damage has not yet occurred.

(9) With early detection, these risks can be subverted for people affected by prediabetes, and for those already diagnosed with diabetes, these risks can be reduced through proper exercise, nutrition, and weight management.

(10) In 2005, 176,500 people aged 20 years or younger were diagnosed with diabetes. This accounts for 0.22 percent of all people aged 20 years or younger.

(11) In addition, 2,000,000 adolescents aged 12–19 have prediabetes and with early detection and proper management of glucose levels, people can delay or even prevent type 2 diabetes from ever developing.

(12) The prevalence of diabetes is 1.7 times higher in Latinos than non-Latino whites.

(13) Two and one-half million or 9.5 percent of all Latino Americans aged 20 or older have diabetes.

(14) Approximately 24 percent of Mexican-Americans in the United States and 26 percent of Puerto Ricans between the ages of 45 and 74 have diabetes.

(15) An estimated 44 percent of Latinos over 65 will have diabetes by 2020.

SEC. 2. Section 49452.7 is added to the Education Code, to read:

49452.7. (a) On and after July 1, 2010, the school district shall provide an information sheet regarding type 2 diabetes to the parent or guardian of incoming 7th grade pupils. The information sheet may be provided to the parent or guardian of incoming 7th graders with the information provided pursuant to Section 48980. The information sheet shall include, but shall not be limited to, all of the following:

(1) A description of type 2 diabetes.

(2) A description of the risk factors and warning signs associated with type 2 diabetes.

(3) A recommendation that pupils displaying or possibly suffering from risk factors or warning signs associated with type 2 diabetes should be screened for type 2 diabetes.

(4) A description of treatments and prevention methods of type 2 diabetes.

(5) A description of the different types of diabetes screening tests available.

(b) The information sheet shall be developed by the State Department of Education in coordination with any other entity the department deems appropriate. The information sheet shall be made available to each school district through the State Department of Education's Web site and any other Web site the department deems appropriate, as well as by providing written copies of the information sheet to the school district upon written request to the department.

(c) It is the intent of the Legislature that school districts, to the extent that resources or funds, or both, are available, provide information to parents regarding locations at which parents may receive diabetes screening and education services at free or reduced costs from public or private sources.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 236

An act to add and repeal Article 1.5 (commencing with Section 104601) of Chapter 2 of Part 3 of Division 103 of the Health and Safety Code, relating to nutrition.

[Approved by Governor September 13, 2006. Filed with Secretary of State September 13, 2006.]

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

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

(a) The new federal Dietary Guidelines for Americans encourage all Americans to eat more fruits and vegetables, and for most people, the new recommended amount is double that in the previous guidelines.

(b) Clear and overwhelming evidence indicates that eating more fruits and vegetables can help reduce the risk of diet-related chronic diseases, such as type 2 diabetes, heart disease, stroke, and many cancers, as well as help to maintain a healthy body weight.

(c) Recent research in California confirms that, healthier foods, including fresh fruits and vegetables, are less available and more costly in low-income communities, and that the higher cost and lower availability inhibit their purchase by food stamp recipients and other low-income individuals.

(d) The State Department of Health Services is currently required by state law to establish and implement the California 5 a Day—for Better Health (5 a Day) program to increase consumption of fruits and vegetables in order to improve health and prevent major chronic diseases, including diet-related cancers.

(e) Current funding restrictions prohibit the 5 a Day program from implementing important marketing and promotion activities in retail and grocery stores where consumers make their food choices.

(f) The pilot program established pursuant to this act is aimed at improving the health and nutrition of low-income Californians by responding to the problem of limited local and affordable access to fresh fruits and vegetables. The primary strategies tested in the pilot program will be aimed at increasing the availability of fresh fruits and vegetables at small neighborhood grocery stores, and making fresh produce

purchases a smart economic choice for those with very limited food budgets.

SEC. 2. Article 1.5 (commencing with Section 104601) is added to Chapter 2 of Part 3 of Division 103 of the Health and Safety Code, to read:

Article 1.5. Healthy Food Purchase Pilot Program

104601. (a) The department, in consultation with the Department of Food and Agriculture, shall develop a "Healthy Food Purchase" pilot program to increase the sale and purchase of fresh fruits and vegetables in low-income communities.

(b) The total number of counties included in the pilot program shall not exceed seven.

(c) The department, in consultation with the Department of Food and Agriculture, shall design the program to include the following two components:

(1) Strategies aimed at small grocers in targeted low-income neighborhoods to increase the offerings of fresh fruits and vegetables in those communities. In selected pilot program communities, the department shall provide targeted food retailers with support or assistance to obtain refrigerated produce display cases through the assessment of the feasibility of a variety of financing methods including, but not limited to, leasing, lending, small business and economic development support, and other time-limited strategies. The department shall also provide technical assistance to targeted retailers on the purchase, storage, marketing, and display of fresh produce. The department shall use available federal funds for this technical assistance, where appropriate.

(2) Strategies aimed at food stamp recipients to increase their purchase of fresh fruits and vegetables by making those products more affordable, including the development and implementation of financial incentives. The department, in consultation with the State Department of Social Services, shall seek any necessary federal government approvals to allow use of the Food Stamp Electronic Benefits Card, as provided in Chapter 3 (commencing with Section 10065) of Part 1 of Division 9 of the Welfare and Institutions Code, to provide those incentives, and to implement the pilot program.

(d) In developing the pilot program, the department shall include all of the following:

(1) At least one county that is above the food stamp average county participation.

(2) At least one county that is below the food stamp average county participation.

(3) At least one county with high above-average rates of poverty, food insecurity, or obesity.

(4) At least one urban county.

(5) At least one rural county.

(e) The department shall consider all of the following in choosing counties to participate in the program.

(1) The level of need in the community.

(2) The size of the food stamp population.

(3) The need for geographic diversity.

(4) The availability of technology in targeted food retailers to collect the data necessary to evaluate the pilot program.

(f) The department shall seek all necessary approvals to establish the pilot program, and shall apply for available federal matching funds to support the work of the pilot program.

(g) The department shall develop, in consultation with the United States Department of Agriculture's Economic Research Service, a process for evaluating the effectiveness of the pilot program. The evaluation shall examine the impact of the various strategies employed in the pilot program on the purchase of fresh produce and on any increase in retailer space devoted to the sale of fresh fruits and vegetables, and the effect this has on retailer profitability. The evaluation also shall test alternatives to the reliance on uniform product codes for identification of fresh produce deemed eligible for financial incentives. The department shall contract with an independent external evaluator to conduct this evaluation. The department shall make recommendations to the Legislature regarding the continuation of the pilot program, and any state and federal policy changes needed to support the goals of the pilot program.

(h) The department shall not implement this article in any fiscal year unless an appropriation by the Legislature of federal or other funds has been made, in the annual Budget Act or another statute, to the department expressly for the purposes of implementing this article for that fiscal year.

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

CHAPTER 237

An act to amend Section 21132 of, and to add Section 20037.9 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2006. Filed with
Secretary of State September 13, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Unit 16, Union of American Physicians and Dentists (UAPD), on July 12, 2006, and State Bargaining Unit 19, American Federation of State, County and Municipal Employees (AFSCME), on July 18, 2006, that require the expenditure of funds.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations, and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) State Bargaining Unit 16, Union of American Physicians and Dentists.

(b) State Bargaining Unit 19, American Federation of State, County and Municipal Employees.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memoranda of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memoranda of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding included in Section 2 that require the expenditure of funds shall become effective even if the provisions of the memoranda of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20037.9 is added to the Government Code, to read:

20037.9. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 16 or 19, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other

period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 16 or 19.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 16 or 19 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 6. Section 21132 of the Government Code is amended to read:

21132. Every state safety member shall be retired on the first day of the calendar month succeeding that in which he or she attains age 65. Every member who has attained age 65 when he or she becomes a state safety member shall be retired on the first day of the following month.

This section shall not apply to members represented by State Bargaining Unit 16 or State Bargaining Unit 19.

SEC. 7. The sum of thirty-two million seven hundred seventy-four thousand dollars ($32,774,000) is hereby appropriated for expenditure in the 2006–07 fiscal year in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2006 in accordance to the following schedule:

(a) Twenty-five million seventy-seven thousand dollars ($25,077,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Four million nine hundred twenty-six thousand dollars ($4,926,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Two million seven hundred seventy-one thousand dollars ($2,771,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2006–07 fiscal year, and thereby facilitate the orderly

administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 238

An act to amend Section 20047.5 of, and to add Sections 20037.11 and 20037.12 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2006. Filed with Secretary of State September 13, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve agreements pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Unit 10, California Association of Professional Scientists (CAPS), on August 18, 2006, and State Bargaining Unit 18, California Association of Psychiatric Technicians (CAPT), on August 18, 2006, that require the expenditure of funds.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations, and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) State Bargaining Unit 10, California Association of Professional Scientists.

(b) State Bargaining Unit 18, California Association of Psychiatric Technicians.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of a memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of that memorandum of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of those memoranda of understanding included in Section 2 that require the expenditure of funds shall become effective even if

the provisions of the memoranda of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20037.11 is added to the Government Code, to read:

20037.11. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 10, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 10.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 10 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 6. Section 20037.12 is added to the Government Code, to read:

20037.12. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 18, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 18.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 18 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 7. Section 20047.5 of the Government Code is amended to read:

20047.5. "Industrial," with respect to state miscellaneous members, means death or disability on or after January 1, 2002, or the date agreed to in the memorandum of understanding between the state employer and the recognized employee organization, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of Developmental Services, at Porterville Developmental Center, Canyon Springs Community Facility, or Sierra Vista Community Facility, if both of the following apply:

(a) The member either (1) was performing his or her duties within a treatment ward at the time of the injury, or (2) was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients.

(b) The member, at the time of injury, was either (1) employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, (2) excluded from the definition of "state employee" in subdivision (c) of Section 3513, or (3) a non-elected officer or employee of the executive branch of government who was not a member of the civil service.

SEC. 8. The sum of twenty-three million four hundred sixty-nine thousand dollars ($23,469,000) is hereby appropriated for expenditure in the 2006–07 fiscal year in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2006 in accordance to the following schedule:

(a) Thirteen million nine hundred seventy thousand dollars ($13,970,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Six million seventy-nine thousand dollars ($6,079,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Three million four hundred twenty thousand dollars ($3,420,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2006–07 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 239

An act to add Section 20037.10 to the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2006. Filed with Secretary of State September 13, 2006.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Unit 7, California Union of Safety Employees (CAUSE) on August 11, 2006, that requires the expenditure of funds.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 7, California Union of Safety Employees (CAUSE), that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding included in Section 2 of this act that require the expenditure of funds shall become effective

even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20037.10 is added to the Government Code, to read:

20037.10. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 7, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 7.

(c) This section does not apply to:

(1) Service credit accrued while classified as a state peace officer/firefighter while a member of Bargaining Unit 7.

(2) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(3) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(4) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 7 on or after January 1, 2007.

(5) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2006–07 fiscal year and thereby facilitate the orderly administration of state government at the earliest possible time; it is necessary that this act take effect immediately.

CHAPTER 240

An act to amend Section 20035.1 of, and to add Sections 19825.5 and 21428.1 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2006. Filed with
Secretary of State September 13, 2006.]

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

SECTION 1. The Legislature finds and declares that a purpose of this act is to approve an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Unit 5, California Association of Highway Patrolmen (CAHP), on July 28, 2006, that requires the expenditure of funds.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 5, California Association of Highway Patrolmen (CAHP), and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 3, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding included in Section 2 of this act that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 19825.5 is added to the Government Code, to read:

19825.5. (a) Notwithstanding Sections 11550, 11552, and 11554, the department shall set and adjust, as needed, the annual compensation of the officers and employees listed in Sections 11550, 11552, and 11554.

(b) When setting or adjusting the annual compensation of the employees described in subdivision (a), the department shall consider the size and scope of the organization, compensation paid to other similar positions in other public jurisdictions, the scope of responsibility of the position, the need to avoid salary compaction, and other factors appropriate to the determination of compensation necessary to recruit and retain qualified employees in leadership positions for the state. The compensation shall not exceed 125 percent of the compensation recommended to be paid to the Governor of the State of California by the California Citizens Compensation Commission.

(c) The department shall notify the Legislature of the compensation level implemented for any of the employees described in subdivision (a) within 30 days of the effective date of the proposed compensation adjustment.

SEC. 6. Section 20035.1 of the Government Code is amended to read:

20035.1. For patrol members in State Bargaining Unit 5, patrol members excepted from the definition of "state employee" in subdivision (c) of Section 3513, and patrol members who are officers or employees of the executive branch of state government who are not members of the civil service, the member's final compensation shall be increased as follows:

(a) For a member who retires or dies on or after July 1, 2001, and prior to July 1, 2004, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by one-half of the normal rate of contribution specified in subdivision (a) of Section 20681.

(b) For a member who retires or dies on or after July 1, 2004, and prior to July 1, 2007, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by the normal rate of contribution specified in subdivision (a) of Section 20681.

(c) For a member who retires or dies on or after July 1, 2007, and prior to July 1, 2008, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by three-fourths of the normal rate of contribution specified in subdivision (a) of Section 20681.

(d) For a member who retires or dies on or after July 1, 2008, and prior to July 1, 2009, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by one-half of the normal rate of contribution specified in subdivision (a) of Section 20681.

(e) For a member who retires or dies on or after July 1, 2009, and prior to July 1, 2010, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by one-fourth of the normal rate of contribution specified in subdivision (a) of Section 20681.

(f) This section shall remain in effect only until July 1, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 7. Section 21428.1 is added to the Government Code, to read:

21428.1. (a) Upon retirement of a patrol member for industrial disability as the result of a single event that results in serious bodily injury, the member shall receive the higher of the allowance provided by Section 21406, or, the disability allowance otherwise provided pursuant to this section equal to 3 percent of his or her final compensation multiplied by the number of years of patrol service credited to him or her plus an annuity purchased with his or her accumulated additional

contributions, if any. This section shall not apply to a disability that manifests more than six months after the effective date for the industrial disability retirement. This section does not entitle the member to an industrial disability retirement if the member would not otherwise be eligible for an industrial disability retirement.

(b) This section shall apply only to serious bodily injuries, and shall not be applied to disabilities that are the result of any of the following:

(1) Cumulative trauma.

(2) Cumulative injuries, including, but not limited to, heart conditions, stroke, stress, anxiety, or diabetes.

(3) Presumptive injuries or illnesses as described in Chapter 1 (commencing with Section 3200) of Part 1 of Division 4 of the Labor Code.

(4) Stress-related disabilities.

(5) Physical disability having mental origin.

(c) If a patrol member has other service credit as a state peace officer/firefighter member, state safety member, local safety member, state miscellaneous, state industrial, or local miscellaneous member under this system, the cumulative benefit pursuant to this section, including an annuity purchased with his or her accumulated contributions, shall not exceed 90 percent of final compensation.

(d) For purposes of this section, "serious bodily injury" includes any of the following:

(1) Total loss of sight in one or both eyes.

(2) Total loss of hearing in both ears.

(3) Amputation or total loss of function in a hand, arm, foot, or leg.

(4) A spinal cord injury resulting in paralysis which causes the complete loss of function in a hand, arm, foot, or leg.

(5) Physical injury to the brain resulting in serious cognitive disorders or paralysis which causes the complete loss of function in a hand, arm, foot, or leg.

(6) Injury to a major internal organ which substantially limits one or more "major life activities." Major life activities are functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and performing substantial gainful employment.

(7) Any other serious physical injury that results in the inability to perform substantial gainful employment.

(e) This section applies only to those patrol members who are described by at least one of the following:

(1) Employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section.

(2) Excluded from the definition of state employee in subdivision (c) of Section 3513.

(3) Employed by the executive branch of government and not a member of the civil service.

(f) In the event of a dispute regarding the applicability of this section, the board shall proceed with retirement pursuant to any other section that may apply and with the payment of any benefits that are payable pursuant to any other section when this section is not applicable. If the board subsequently determines that this section is applicable, an amount equal to the benefits paid shall be deducted from the benefits payable pursuant to this section because of the determination.

SEC. 8. The Legislature further finds and declares that, pursuant to Government Code 19826, a purpose of this act is to approve adjustments to salary ranges for employees exempt from the definition of state employee in subdivision (c) of Section 3513 and state employees of the Judicial Branch, and adjustments to mileage reimbursements for various bargaining units with approved or pending memoranda of understanding that require the expenditure of funds.

SEC. 9. The sum of one hundred seventy-three million one hundred three thousand dollars ($173,103,000) is hereby appropriated for expenditure in the 2006–07 fiscal year in augmentation of, and for the purpose of, state employee compensation for State Bargaining Unit 5, California Association of Highway Patrolmen (CAHP), and the State of California excluded pay program and mileage adjustment for various collective bargaining units that have been previously approved or pending approval, as provided in Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2006 in accordance to the following schedule:

(a) Sixty-five million three hundred fifty-three thousand dollars ($65,353,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Sixty-eight million nine hundred sixty thousand dollars ($68,960,000) from unallocated special funds in augmentation of Item 9800-001-0494. Of this amount, thirty-four million two hundred thousand dollars ($34,200,000) shall satisfy the terms of the agreement between the state and the California Association of Highway Patrolmen.

(c) Thirty-eight million seven hundred ninety thousand dollars ($38,790,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2006–07 fiscal year and thereby facilitate the orderly administration of state government at the earliest possible time; it is necessary that this act take effect immediately.

CHAPTER 241

An act to amend Sections 6253.4, 6254.18, 8169.5, and 12803 of, and to add Section 11554.5 to, the Government Code, and to amend Sections 20, 21, 135, 136, 137, 138, 138.4, 151, 152, 100100, 100105, 100170, 109277, and 109282 of, to amend and renumber Sections 100106, 100119, 100175, 100180, 100182, 100185, 100190, 100195, 100200, 100205, 100210, 100215, 100225, 100230, and 100235 of, to add Division 112 (commencing with Section 131000) to, to add and repeal Chapter 3 (commencing with Section 131230) of Division 112 of, and to repeal Section 100117 of, the Health and Safety Code, relating to health.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. (a) This act shall be known and may be cited as the California Public Health Act of 2006.

(b) (1) It is the intent of the Legislature, in enacting this act, to establish the State Department of Public Health and rename the State Department of Health Services as the State Department of Health Care Services.

(2) By enacting this act establishing the State Department of Public Health, it is the intent of the Legislature to do all of the following:

(A) Transfer all public health programs currently operated through the existing State Department of Health Services to the State Department of Public Health, without regard to whether or not that public health program has been formally created by statute.

(B) Require that the health purchasing programs continue to be operated by the State Department of Health Care Services, the new name of the former State Department of Health Services.

(C) Authorize the Governor to make final decisions about the placement of specific programs and offices that are not formally created by statute or named in this act in a way that is consistent with the intent

of the Legislature in establishing the State Department of Public Health and with the overall spirit of this act.

(D) Elevate the visibility and importance of public health issues in the policy arena.

(E) Increase accountability and require program effectiveness for the public health and health care purchasing functions of state government.

(F) Promote the health status of Californians through programs and policies that use populationwide interventions.

(G) Recruit and retain top quality public health professionals including physicians, nurses, and scientists, who have the requisite education, and experience to protect the public health and safety.

(c) For purposes of this section, "public health programs" refers primarily to programs and functions that seek to prevent illness in, and promote the health of, the public at large, in contrast with health care services programs, which relate to either the direct delivery of health care services to eligible individuals, or relate to payment for those services.

SEC. 2. Section 6253.4 of the Government Code is amended to read:

6253.4. (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Department of Managed Health Care
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Board of Equalization
State Department of Health Care Services

Employment Development Department
State Department of Public Health
State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Resources Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District
Department of Toxic Substances Control
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

SEC. 3. Section 6254.18 of the Government Code is amended to read:

6254.18. (a) Nothing in this chapter shall be construed to require disclosure of any personal information received, collected, or compiled by a public agency regarding the employees, volunteers, board members, owners, partners, officers, or contractors of a reproductive health services facility who have notified the public agency pursuant to subdivision (d) if the personal information is contained in a document that relates to the facility.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Contractor" means an individual or entity that contracts with a reproductive health services facility for services related to patient care.

(2) "Personal information" means the following information related to an individual that is maintained by a public agency: social security

number, physical description, home address, home telephone number, statements of personal worth or personal financial data filed pursuant to subdivision (n) of Section 6254, personal medical history, employment history, electronic mail address, and information that reveals any electronic network location or identity.

(3) "Public agency" means all of the following:

(A) The State Department of Health Care Services.

(B) The Department of Consumer Affairs.

(C) The Department of Managed Health Care.

(D) The State Department of Public Health.

(4) "Reproductive health services facility" means the office of a licensed physician and surgeon whose specialty is family practice, obstetrics, or gynecology, or a licensed clinic, where at least 50 percent of the patients of the physician or the clinic are provided with family planning or abortion services.

(c) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to obtain access to employment history information pursuant to Sections 6258 and 6259. If the court finds, based on the facts of a particular case, that the public interest served by disclosure of employment history information clearly outweighs the public interest served by not disclosing the information, the court shall order the officer or person charged with withholding the information to disclose employment history information or show cause why he or she should not do so pursuant to Section 6259.

(d) In order for this section to apply to an individual who is an employee, volunteer, board member, officer, or contractor of a reproductive health services facility, the individual shall notify the public agency to which his or her personal information is being submitted or has been submitted that he or she falls within the application of this section. The reproductive health services facility shall retain a copy of all notifications submitted pursuant to this section. This notification shall be valid if it complies with all of the following:

(1) Is on the official letterhead of the facility.

(2) Is clearly separate from any other language present on the same page and is executed by a signature that serves no other purpose than to execute the notification.

(3) Is signed and dated by both of the following:

(A) The individual whose information is being submitted.

(B) The executive officer or his or her designee of the reproductive health services facility.

(e) The privacy protections for personal information authorized pursuant to this section shall be effective from the time of notification pursuant to subdivision (d) until either one of the following occurs:

(1) Six months after the date of separation from a reproductive health services facility for an individual who has served for not more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

(2) One year after the date of separation from a reproductive health services facility for an individual who has served for more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

(f) Within 90 days of separation of an employee, contractor, volunteer, board member, or officer of the reproductive health services facility who has provided notice to a public agency pursuant to subdivision (c), the facility shall provide notice of the separation to the relevant agency or agencies.

(g) Nothing in this section shall prevent the disclosure by a government agency of data regarding age, race, ethnicity, national origin, or gender of individuals whose personal information is protected pursuant to this section, so long as the data contains no individually identifiable information.

SEC. 4. Section 8169.5 of the Government Code is amended to read:

8169.5. (a) In furtherance of the Capitol Area Plan, the objectives of Resolution Chapter 131 of the Statutes of 1991, and the legislative findings and declarations contained in Chapter 193 of the Statutes of 1996, relative to the findings by the Urban Land Institute, the director may purchase, exchange, or otherwise acquire real property and construct facilities, including any improvements, betterments, and related facilities, within the jurisdiction of the Capitol Area Plan in the City of Sacramento pursuant to this section. The total authorized scope of the project shall consist of up to approximately 1,470,200 gross square feet of office space and approximately 742,625 gross square feet of parking structures for use by the State Department of Education, the State Department of Health Care Services, the State Department of Public Health, and the Department of General Services as anchor tenants on blocks 171, 172, 173, 174, and 225, along with related additional parking on block 224, within the Capitol area. The acquisition and construction authorized pursuant to this section may not cause the displacement of any state or legislative employee parking spaces in the blocks specified in this subdivision unless the Department of General Services makes available existing state-owned parking spaces, acquires parking spaces, or constructs replacement parking that results in the affected employees' parking spaces being located at a reasonable distance from their place of employment.

(b) Subject to paragraphs (2) and (3) of subdivision (c), the department may contract for the lease, lease-purchase, lease with an option to

purchase, acquisition, design, design-build, construction, construction management, and other services related to the design and construction of the office and parking facilities authorized to be acquired pursuant to subdivision (a).

(c) (1) The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 to finance all costs associated with acquisition, design, and construction of office and parking facilities for the purposes of this section. The State Public Works Board and the department may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. In the event the bonds authorized by the project are not sold, the State Department of Education, the State Department of Health Care Services, the State Department of Public Health, and the Department of General Services, as determined by the Department of Finance, shall commit a sufficient amount of their support appropriations to repay any loans made for the project from the Pooled Money Investment Account. It is the intent of the Legislature that this commitment shall be included in future Budget Acts until all outstanding loans from the Pooled Money Investment Account are repaid either through the proceeds from the sale of bonds or from an appropriation.

(2) (A) If the department proposes to acquire the facilities on a design-build basis, prior to the department entering into an agreement pursuant to subdivision (b) to design and build the facilities on blocks 171, 172, 173, 174, and 225, as specified in subdivision (a), the department shall submit to the Legislature a copy of all documents that shall be the basis upon which bids will be solicited and awarded to design and build the facilities. The documents shall include the following:

(i) The request for qualifications.

(ii) Site development guidelines.

(iii) Architectural and all system design requirements for the facilities.

(iv) Notwithstanding any other provision of law, the recommended specific criteria and process by which the contractor shall be selected.

(v) The performance criteria and standards for the architecture and all components and systems of the facilities.

(B) The information in the documents shall be provided in at least as much detail as was prepared for the San Francisco Civic Center Complex project and shall cover the quality of materials, equipment, and workmanship to be used in the facilities. These documents shall also include a detailed and specific space program for the facilities that identifies the specific spatial needs of the state agencies.

(C) If the department proceeds to acquire the facilities on a design-build basis, in addition to any other requirements imposed

pursuant to this section, notwithstanding Section 7550.5, the department shall provide the Legislature, beginning on July 1, 1999, and every three months thereafter until the facilities are completed, with a status report that includes information regarding any benefits that the state may have realized from use of the design-build approach, any problems that have been encountered from the use of a design-build approach, and lessons learned that may be applied to a future project. The department shall issue a final report when the facilities are completed.

(D) If the department proposes to contract for construction separate from design, the department shall, prior to commencing work on working drawings for the facilities on blocks 171, 172, 173, 174, and 225, submit to the Legislature a copy of the preliminary plans for the facilities and a detailed and specific space program for the facilities that identifies the specific spatial needs of the state agencies.

(E) Regardless of how the department proposes to acquire the facilities, the department also shall submit all of the following information, which may be included in the bid documents:

(i) A final estimated cost for design, construction, and other costs.

(ii) How the department would manage the contracts entered into for this project to ensure compliance with contract requirements and to ensure that the state receives the highest level of quality workmanship and materials for the funds spent on the project.

(3) Except for the reports specified in subparagraph (C) of paragraph (2), the department shall submit to the Legislature the information required to be submitted pursuant to paragraphs (2) and (6) on or before December 1, 1998. Except for those contracts and agreements necessary to prepare the information required by paragraphs (2) and (6), the department shall not solicit bids to enter into any agreement to design and build or otherwise acquire the facilities or commence work on working drawings on block 171, 172, 173, 174, or 225 sooner than the later of April 1, 1999, or 120 days after the department submits to the Legislature the information required to be submitted pursuant to paragraphs (2) and (6). The Legislative Analyst shall evaluate the information submitted to the Legislature and shall prepare a report to the Joint Committee on Rules within 60 days of receiving the documents submitted to the Legislature. It is the intent of the Legislature that the Joint Committee on Rules meet prior to the date the department is authorized to solicit bids to design and build or otherwise acquire the facilities or commence work on working drawings for the purposes of discussing the report from the Legislative Analyst and adopting a report with any recommendations to the department on changes to the site design criteria, performance criteria, and specifications and specific criteria for determining the winning bidder. If the Joint Committee on

Rules adopts a report prior to the date the department is authorized to solicit bids to design and build or otherwise acquire the facilities or commence work on working drawings, the department may solicit the bids or commence the work when the report is adopted by the Joint Committee on Rules. The Senate Committee on Rules and the Speaker of the Assembly may designate members of their respective houses to monitor the progress of the preparation of the documents to be submitted pursuant to paragraph (2). The department shall prepare periodic progress reports and meet with the designated members or their representatives, as necessary, while preparing the documents.

(4) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold may equal, but shall not exceed, the cost of planning, preliminary plans, working drawings, construction, construction management and supervision, other costs relating to the design and construction of the facilities, and any additional sums necessary to pay interim and permanent financing costs. The additional amount may include interest and a reasonable required reserve fund.

(5) Authorized costs of the facilities for preliminary plans, working drawings, construction, and other costs shall not exceed three hundred ninety-two million dollars ($392,000,000). Notwithstanding Section 13332.11, the State Public Works Board may authorize the augmentation of the amount authorized under this paragraph by up to 10 percent of the amount authorized.

(6) The net present value of the cost to acquire and operate the facilities authorized by subdivision (a) may not exceed the net present value of the cost to lease and operate an equivalent amount of comparable office space over the same time period. The department shall perform this analysis and shall obtain interest rates, discount rates, and Consumer Price Index figures from the Treasurer and submit its analysis with the documents submitted pursuant to paragraph (2) of subdivision (c). For purposes of this analysis, the department shall compare the cost of acquiring and operating the proposed facilities with the avoided cost of leasing and operating an equivalent amount of comparable office space that will no longer need to be leased because either (A) agencies will no longer occupy currently leased facilities when they occupy the proposed facilities, or (B) agencies will no longer occupy currently leased facilities when they occupy state-owned space being vacated by state agencies occupying the proposed facilities. The analysis shall also include the cost of any unique improvement associated with the moving of an agency into any state-owned space that would be vacated by agencies moving into the proposed facilities. However, these costs shall not include the cost of renovating or modernizing vacated state-owned space that is necessary to accommodate state agencies in general purpose office space.

This paragraph shall not be construed as authorizing any renovation of state-owned space.

(d) The director may execute and deliver a contract with the State Public Works Board for the lease of the facilities described in this section that are financed with the proceeds of the board's bonds, notes, or bond anticipation notes issued in accordance with this section.

SEC. 5. Section 11554.5 is added to the Government Code, to read:

11554.5. Effective July 1, 2007, an annual salary of two hundred twenty-two thousand dollars ($222,000) shall be paid to the State Public Health Officer. The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 6. Section 12803 of the Government Code is amended to read:

12803. (a) The California Health and Human Services Agency consists of the following departments: Health Care Services; Mental Health; Developmental Services; Public Health; Social Services; Alcohol and Drug Abuse; Aging; Rehabilitation; and Community Services and Development.

(b) The agency also includes the Office of Statewide Health Planning and Development and the State Council on Developmental Disabilities.

(c) The Department of Child Support Services is hereby created within the agency commencing January 1, 2000, and shall be the single organizational unit designated as the state's Title IV-D agency with the responsibility for administering the state plan and providing services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations as required by Section 654 of Title 42 of the United States Code. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements.

SEC. 8. Section 20 of the Health and Safety Code is amended to read:

20. "State department" or "department" means State Department of Health Services. Commencing July 1, 2007, any reference to the former State Department of Health Services regarding a function vested by Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, in the State Department of Public Health is deemed to, instead, refer to the State Department of Public Health, and any reference to the former State Department of Health Services regarding a function not vested by Chapter 2 (commencing with Section 131050) of Part 1 of Division 112,

in the State Department of Public Health, is deemed to, instead, refer to the State Department of Health Care Services.

SEC. 9. Section 21 of the Health and Safety Code is amended to read:

21. "Director" means "State Director of Health Services." Commencing July 1, 2007, any reference to the former State Director of Health Services regarding a function vested by Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, in the State Department of Public Health is deemed to, instead, refer to the State Public Health Officer.

SEC. 10. Section 135 of the Health and Safety Code is amended to read:

135. The Office of Women's Health is hereby established within the State Department of Health Care Services. For purposes of this chapter, "office" means the Office of Women's Health.

SEC. 11. Section 136 of the Health and Safety Code is amended to read:

136. (a) The California Health and Human Services Agency shall establish an interagency task force on women's health composed of representatives of the State Department of Health Care Services, the State Department of Public Health, the State Department of Developmental Services, the State Department of Social Services, the State Department of Alcohol and Drug Programs, and the Major Risk Medical Insurance Program.

(b) The State Department of Education, the Department of Housing and Community Development, the office of the Attorney General, the State Department of Mental Health, and the Department of Corrections may participate with the interagency task force on women's health when necessary to implement the state strategy developed pursuant to Section 137.

SEC. 11.4. Section 137 of the Health and Safety Code is amended to read:

137. (a) The office shall develop a coordinated state strategy for addressing the health related needs of women.

(b) The approved programmatic costs of the office shall be shared equally by the State Department of Health Care Services and the State Department of Public Health unless otherwise provided by law.

(c) The office shall report to the Director of Health Care Services.

SEC. 11.6. Section 138 of the Health and Safety Code is amended to read:

138. The office may do any of the following on behalf of the State Department of Health Care Services and the State Department of Public Health jointly or separately:

(a) Perform strategic planning within these state departments to develop departmentwide plans for implementation of goals and objectives for women's health.

(b) Conduct policy analysis on specific issues related to women's health.

(c) Coordinate pilot projects and planning projects funded by the state that are related to women's health.

(d) Identify unnecessary duplication of services and future service needs.

(e) Communicate and disseminate information and perform a liaison function within these state departments and to providers of health, social, educational, and support services to women.

(f) Perform internal staff training for these state departments, and training of health care professionals to ensure more linguistically and culturally appropriate care.

(g) Serve as a clearinghouse for information regarding women's health data, strategies, and programs that address women's health issues, including pregnancy, breast and cervical cancers, AIDS, osteoporosis, and menopause, as well as issues that impact women's health, including substance abuse, domestic violence, housing, teenage pregnancy, and sexual assault.

(h) Encourage innovative responses by public and private entities that are attempting to address women's health issues.

(i) Provide technical assistance to counties, other public entities, and private entities seeking to obtain funds for initiatives in women's health, including identification of sources of funding and assistance with writing of grants.

SEC. 12. Section 138.4 of the Health and Safety Code is amended to read:

138.4. (a) The State Department of Health Care Services and the State Department of Public Health shall place priority on providing information to consumers, patients, and health care providers regarding women's gynecological cancers, including, signs and symptoms, risk factors, the benefits of early detection through appropriate diagnostic testing, and treatment options.

(b) The information may include, but is not limited to, the following elements:

(1) Educational and informational materials in print, audio, video, electronic, or other media.

(2) Public service announcements and advertisements.

(c) (1) Each department may produce or contract with others to develop the materials described in this section as the director of each department deems appropriate, or may survey available publications

from, among other sources, the National Cancer Institute and the American Cancer Society, and may collect and formulate a distribution plan and disseminate these publications according to the plan. These materials may be made available to the public free of charge and may include distribution through the Medical Board of California, as well as through other sources according to the distribution plan.

(2) Each department may require, as it deems appropriate, health care providers to make these materials available to patients.

(d) In exercising the powers under this section, each department shall consult with appropriate health care professionals and providers, consumers, and patients, or organizations representing them.

(e) Each department may appoint a Women's Gynecological Cancer Information Advisory Council which may include representation from health care professionals and providers, consumers, patients, and other appropriate interests. Members of each council shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(f) Each department's duties pursuant to this section are contingent upon that department receiving funds appropriated for this purpose.

(g) Each department may adopt any regulations necessary and appropriate for that department's implementation of this section.

SEC. 12.4. Section 151 of the Health and Safety Code is amended to read:

151. (a) The Office of Multicultural Health is hereby established within the State Department of Public Health. The approved programmatic costs of the Office of Multicultural Health shall be shared equally by the State Department of Health Care Services and the State Department of Public Health unless otherwise provided by law. The Office of Multicultural Health shall report to the State Public Health Officer.

(b) For purposes of this chapter:

(1) "Department" means the State Department of Health Care Services and the State Department of Public Health unless the context provides otherwise.

(2) "Office" means the Office of Multicultural Health.

SEC. 12.6. Section 152 of the Health and Safety Code is amended to read:

152. (a) The office shall do all of the following on behalf of the State Department of Health Care Services and the State Department of Public Health:

(1) Perform strategic planning within these departments to develop departmentwide plans for implementation of goals and objectives to

close the gaps in health status and access to care among the state's diverse racial and ethnic communities.

(2) Conduct departmental policy analysis on specific issues related to multicultural health.

(3) Coordinate pilot projects and planning projects funded by the state that are related to improving the effectiveness of services to ethnic and racial communities.

(4) Identify the unnecessary duplication of services and future service needs.

(5) Communicate and disseminate information and perform a liaison function within the departments and to providers of health, social, educational, and support services to racial and ethnic communities. The office shall consult regularly with representatives from diverse racial and ethnic communities, including health providers, advocates, and consumers.

(6) Perform internal staff training, an internal assessment of cultural competency, and training of health care professionals to ensure more linguistically and culturally competent care.

(7) Serve as a resource for ensuring that programs keep data and information regarding ethnic and racial health statistics, strategies and programs that address multicultural health issues, including, but not limited to, infant mortality, cancer, cardiovascular disease, diabetes, human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), child and adult immunization, asthma, unintentional and intentional injury, and obesity, as well as issues that impact the health of racial and ethnic communities, including substance abuse, mental health, housing, teenage pregnancy, environmental disparities, immigrant and migrant health, and health insurance and delivery systems.

(8) Encourage innovative responses by public and private entities that are attempting to address multicultural health issues.

(9) Provide technical assistance to counties, other public entities, and private entities seeking to obtain funds for initiatives in multicultural health, including identification of funding sources and assistance with writing grants.

(b) Notwithstanding Section 7550.5 of the Government Code, the office shall biennially prepare and submit a report to the Legislature on the status of the activities required by this chapter.

SEC. 13. Section 100100 of the Health and Safety Code is amended to read:

100100. There is in the state government in the California Health and Human Services Agency, a State Department of Health Services which, effective July 1, 2007, is hereby renamed the State Department of Health Care Services. Commencing July 1, 2007, any reference in

this chapter, in Chapter 1.5 (commencing with Section 100145), or in Article 1 (commencing with Section 100150) of Chapter 2 to the State Department of Health Services is deemed to, instead, refer to the State Department of Health Care Services with regard to functions not transferred to the State Department of Public Health. Commencing July 1, 2007, all the duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services not vested in the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, shall be retained by, and thereafter be performed by, the renamed State Department of Health Care Services.

SEC. 14. Section 100105 of the Health and Safety Code is amended to read:

100105. The department is under the control of an executive officer known as the Director of Health Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The director shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code. Commencing July 1, 2007, the Director of Health Services shall, thereafter, be known as the Director of Health Care Services.

Upon recommendation of the director, the Governor may appoint not to exceed two chief deputies of the department who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 15. Section 100106 of the Health and Safety Code is amended and renumbered to read:

120155. Pursuant to Section 11158 of the Government Code, the sheriff of each county, or city and county, may enforce within the county, or the city and county, all orders of the State Department of Public Health issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Every peace officer of every political subdivision of the county, or city and county, may enforce within the area subject to his or her jurisdiction all orders of the State Department of Public Health issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. This section is not a limitation on the authority of peace officers or public officers to enforce orders of the State Department of Public Health. When deciding whether to request this assistance in enforcement of its orders, the State Department of Public Health may consider whether it would be necessary to advise the enforcement agency of any measures that should be taken to prevent infection of the enforcement officers.

SEC. 16. Section 100117 of the Health and Safety Code is repealed.

SEC. 17. Section 100119 of the Health and Safety Code is amended and renumbered to read:

131019. There is in the State Department of Public Health an Office of AIDS. The State Department of Public Health, Office of AIDS, shall be the lead agency within the state, responsible for coordinating state programs, services, and activities relating to the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), and AIDS related conditions (ARC). Among its responsibilities, the State Department of Public Health, Office of AIDS, shall coordinate Sections 120875, Section 120880, Chapter 2 (commencing with Section 120800), Chapter 4 (commencing with Section 120900), Chapter 6 (commencing with Section 120950), Chapter 8 (commencing with Section 121025), Chapter 9 (commencing with Section 121050), Chapter 10 (commencing with Section 121075), Chapter 11 (commencing with Section 121150), Chapter 12 (commencing with Section 121200), Chapter 13 (commencing with Section 121250), and Chapter 14 (commencing with Section 121300), of Part 4 of Division 105. Any reference in those provisions to the State Department of Health Services or the State Department of Public Health shall be deemed to be a reference to the Office of AIDS within the State Department of Public Health.

SEC. 18. Section 100170 of the Health and Safety Code is amended to read:

100170. (a) The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(1) To enforce its regulations.

(2) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to its powers and duties.

(b) It may defend all actions and proceedings involving its powers and duties.

(c) In all actions and proceedings it shall sue and be sued under the name of the department.

SEC. 19. Section 100175 of the Health and Safety Code is amended and renumbered to read:

131075. The department may enjoin and abate public nuisances.

SEC. 20. Section 100180 of the Health and Safety Code is amended and renumbered to read:

131080. The department may advise all local health authorities, and, when in its judgment the public health is menaced, it shall control and regulate their action.

SEC. 21. Section 100182 of the Health and Safety Code is amended and renumbered to read:

131082. Every person charged with the performance of any duty under the laws of this state relating to the preservation of the public health, who willfully neglects or refuses to perform the same, is guilty of a misdemeanor.

SEC. 22. Section 100185 of the Health and Safety Code is amended and renumbered to read:

131085. (a) The department may perform any of the following activities relating to the protection, preservation, and advancement of public health:

(1) Studies.

(2) Demonstrations of innovative methods.

(3) Evaluations of existing projects.

(4) Provision of training programs.

(5) Dissemination of information.

(b) In performing an activity specified in subdivision (a), the department may do any of the following:

(1) Perform the activity directly.

(2) Enter into contracts, cooperative agreements, or other agreements for the performance of the activity.

(3) Apply for and receive grants for the performance of the activity.

(4) Award grants for the performance of the activity.

SEC. 23. Section 100190 of the Health and Safety Code is amended and renumbered to read:

131090. The department may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by the department, and for the establishment and maintenance of field training centers in local health departments and in the department.

SEC. 24. Section 100195 of the Health and Safety Code is amended and renumbered to read:

131095. The department shall cause special investigation of the preparation and sale of drugs and food and their adulteration.

SEC. 25. Section 100200 of the Health and Safety Code is amended and renumbered to read:

131100. The department shall perform duties as required by law for the detection and prevention of the adulteration of articles used for food and drink, and for the punishment of persons guilty of violation of any law providing against their adulteration.

SEC. 26. Section 100205 of the Health and Safety Code is amended and renumbered to read:

131105. The department shall examine and may prevent the pollution of sources of public domestic water and ice supply.

SEC. 27. Section 100210 of the Health and Safety Code is amended and renumbered to read:

131110. The department shall maintain a program of Drinking Water and Environmental Management.

SEC. 28. Section 100215 of the Health and Safety Code is amended and renumbered to read:

131115. The department may maintain a mental health service that shall advise and assist local departments of health and education in the establishment of mental health services, particularly in connection with maternal and child health conferences and in the schools of the state.

The department may conduct these activities as may be required in the development of mental health services as related to public health.

This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

SEC. 29. Section 100225 of the Health and Safety Code is amended and renumbered to read:

131125. The department shall enforce Section 383b of the Penal Code.

SEC. 30. Section 100230 of the Health and Safety Code is amended and renumbered to read:

131130. (a) Any person who willfully sells, keeps for sale, or offers for sale any food, drug, device, or cosmetic knowing, after a written notice from either (1) a manufacturer, wholesaler, distributor, or importer, or (2) the department or a local health officer that the product linked to an outbreak of illness, injury, or product tampering is being ordered removed from sale by the department pursuant to Section 131080, shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both a fine and imprisonment.

(b) If a second or subsequent violation is committed after a previous conviction under this section has become final, the person shall 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 of violation, or by imprisonment in the state prison, or by both a fine and imprisonment.

(c) Notwithstanding any other provision of law, the court may suspend the minimum fines provided for in this section if it determines that there are circumstances in mitigation and the court states on the record its reasons for suspending the minimum fine.

SEC. 31. Section 100235 of the Health and Safety Code is amended and renumbered to read:

131135. Whenever any person violates any provision of Section 131130, the court may, as a condition of probation, order the defendant to pay, in lieu of any fine, any expenses, both direct and indirect, incurred by a local health department or the department in monitoring compliance with the order pursuant to Section 131080, including, but not limited to, the costs of conducting inspections and imposing embargoes. The total costs payable to the department and local health departments collectively imposed pursuant to this section shall not exceed the maximum fine for the offense of which the defendant is convicted.

Any amount collected under this section shall be paid to the local health department incurring the expenses or, if to reimburse costs of the department, into the General Fund.

SEC. 32. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a physician and surgeon performs breast cancer screening or biopsy as an outpatient service, or in a reasonably proximate area to where breast cancer screening or biopsy is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

"BE INFORMED"

"If you are a patient being treated for any form of breast cancer, or prior to performance of a biopsy for breast cancer, your physician and surgeon is required to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109275 of the California Health and Safety Code."

"The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures."

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words "BE INFORMED" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

SEC. 33. Section 109282 of the Health and Safety Code is amended to read:

109282. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where prostate cancer screening or treatment is performed by any physician and surgeon, or in a reasonably proximate area to where prostate cancer screening or treatment is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

"BE INFORMED"

"If you are a patient being treated for any form of prostate cancer, or prior to performance of a biopsy for prostate cancer, your physician and surgeon is urged to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109280 of the California Health and Safety Code."

"The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures."

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words "BE INFORMED" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

(d) Subject to future, regular production and replacement schedules from the implementation of the act adding this subdivision, these signs and notices shall include the Internet Web site address of the State Department of Public Health and the Medical Board of California, and a notice regarding the availability of updated prostate cancer summaries on these Web sites.

SEC. 34. Division 112 (commencing with Section 131000) is added to Part 1 of Chapter 1 of the Health and Safety Code, to read:

DIVISION 112. PUBLIC HEALTH

PART 1. GENERAL PROVISIONS

Chapter 1. Organization of the State Department of Public Health

131000. There is in the California Health and Human Services Agency a State Department of Public Health.

131005. (a) There is in state government an executive officer known as the State Public Health Officer, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The State Public Health Officer shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The State Public Health Officer shall serve as the director of, and have control over, the State Department of Public Health.

(c) Any statutory reference to "director," "the Director of Health Services," "the Director of Public Health," or the "Director of the State Department of Public Health," regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), is deemed to, instead, refer to the State Public Health Officer.

(d) Any statutory reference to "department" or "state department" regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), shall refer to the State Department of Public Health.

(e) The director shall be a licensed physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has demonstrated medical, public health, and management experience.

131006. Upon recommendation of the director, the Governor may appoint, not to exceed, two chief deputies of the State Department of Public Health who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

131010. The director shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

131020. All officers or employees of the department employed after July 1, 2007, shall be appointed by the director.

Chapter 2. General Powers of the Department

Article 1. General Provisions

131050. (a) As set forth in this article, the State Department of Public Health shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health, licensing and certification of health facilities, and any other functions performed immediately preceding the operative date of this section by, or under the supervision of, all of the following:

(1) The Deputy Director for Prevention Services of the former State Department of Health Services, excluding the Office of Clinical Preventive Medicine.

(2) The Deputy Director for Licensing and Certification.

(3) The Deputy Director for Health Information and Strategic Planning.

(4) The Deputy Director for Public Health Emergency Preparedness.

(5) The California Conference of Local Health Officers.

(6) The Deputy Director for Primary Care and Family Health as follows: Maternal, Child and Adolescent Health as set forth in Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3, Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7 and Part 8, of Division 106.

(b) It is the intent of the Legislature that, in implementing this article, the duties, powers, purposes, and responsibilities transferred to the State Department of Public Health shall include those formerly performed by the programs of the former State Department of Health Services set forth in this article, provided, however, that nothing in this article shall be construed to require that the State Department of Public Health be organized according to programs described in this article, or to limit the authority or discretion of the State Public Health Officer pursuant to Section 11152 of the Government Code to organize the State Department of Public Health, unless that organization is otherwise required by law. Nothing in this article shall be construed to require that the State Department of Public Health maintain, or refrain from terminating, any program described in this article except to the extent that maintenance of the program is otherwise required by law. Nothing in this article shall be construed to limit or expand the authority of any program described in this article.

131051. The duties, powers, functions, jurisdiction, and responsibilities transferred to the State Department of Public Health shall, pursuant to the act that added this section, include all of the

following previously performed by the former State Department of Health Services:

(a) Under the jurisdiction of the Deputy Director for Prevention Services:

(1) The Office of AIDS, including but not limited to:

(A) The AIDS Drug Assistance Program (Chapter 6 (commencing with Section 120950) of Part 4 of Division 105).

(B) The AIDS Early Intervention Program (Chapter 4 (commencing with Section 120900) of Part 4 of Division 105).

(C) The CARE Services Program, provided for pursuant to the federal Ryan White CARE Act, 42 U.S.C. Section 300ff.

(D) The CARE/Health Insurance Premium Payment Program (federal Ryan White CARE Act, 42 U.S.C. Sec. 300ff).

(E) The Housing Opportunities for Persons with AIDS Program (Section 100119).

(F) The Residential AIDS Licensed Facilities Program (former Section 100119; Chapter 2 (commencing with Section 120815) of Part 4 of Division 105).

(G) The AIDS Case Management Program (federal Ryan White CARE Act, 42 U.S.C. Sec. 300ff; Chapter 2 (commencing with Section 120815) of Part 4 of Division 105).

(H) The AIDS Medi-Cal Waiver Program (former Section 100119; 42 U.S.C. Sec. 1396n(c)).

(I) The Bridge Project (former Section 100119).

(J) The HIV Therapeutic Monitoring Program (Chapter 16 (commencing with Section 121345) of Part 4 of Division 105).

(K) The Learning Immune Function Enhancement program (former Section 100119).

(L) The San Ysidro Prevention Project (Section 113019).

(M) The California Statewide Treatment Education Program (former Section 100119).

(N) The HIV Counseling and Testing Program (Section 113019).

(O) The Neighborhood Intervention Geared Toward High-Risk Testing program (former Section 100119).

(P) The Perinatal Transmission Prevention Project (Section 113019).

(Q) The California AIDS Clearinghouse (Section 113019).

(R) The California Disclosure Assistance and Partner Services/Partner Counseling and Referral Services (Section 113019).

(S) The African-American HIV Initiative (Section 113019; Chapter 13.7 (commencing with Section 120290) of Part 4 of Division 105).

(T) The Injection Drug User HIV Testing Utilizing Hepatitis C Testing High-Risk Initiative (Section 113019).

(U) The Prevention with Positives High-Risk Initiative (Section 113019).

(V) The Statewide Technical Assistance Initiatives (Section 113019).

(W) The HIV/AIDS Case Registry (Sections 113019, 120125, and 120130).

(2) The Office of Binational Border Health, including, but not limited to, all of the following:

(A) The California-Mexico Health Initiative (Part 3 (commencing with Section 475) of Division 1).

(B) The Early Warning Infectious Disease Surveillance Program (Chapter 2 (commencing with Section 1250) of Division 2; Chapter 2 (commencing with Section 120130) of Part 1 of Division 105).

(3) The Division of Communicable Disease Control, including, but not limited to, all of the following:

(A) The Infant Botulism Treatment and Prevention Program (Article 2.5 (commencing with Section 123700) of Chapter 3 of Part 2 of Division 106).

(B) The Sexually Transmitted Disease Control Program (Part 3 (commencing with Section 120500) of Division 105).

(C) The Infectious Disease Program (Chapter 2 (commencing with Section 120130) of Part 1 of Division 105).

(D) The Bioterrorism Epidemiology Program.

(E) The Vector Borne Disease (Part 11 (commencing with Section 116100) of Division 104).

(F) The Tuberculosis Control Program (Part 5 (commencing with Section 121350) of Division 105).

(G) The Microbial Diseases Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(H) The Viral and Rickettsial Disease Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(I) The West Nile Human Surveillance Program (Chapter 2 (commencing with Section 116110) of Part 11 of Division 104).

(J) The Immunization Program (Part 2 (commencing with Section 120325) of Division 105).

(K) The Vaccines for Children Program (Part 2 (commencing with Section 120325) of Division 105).

(4) The Division of Chronic Disease and Injury Control, including, but not limited to, all of the following:

(A) The IMPACT Prostate Cancer Treatment Program (Chapter 7 (commencing with Section 104322) of Part 1 of Division 103).

(B) The Every Woman Counts program (Breast and Cervical Cancer Screening Program) (Article 1.3 (commencing with Section 104150) of

Chapter 2 of Part 1 of Division 103; Section 30461.6 of the Revenue and Taxation Code).

(C) The Well-Integrated Screening and Evaluation for Women Across the Nation Demonstration Project (Article 1.3 (commencing with Section 104150) of Chapter 2 of Part 1 of Division 103).

(D) The California Nutrition Network (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(E) The Cancer Research Program (Article 2 (commencing with Section 104175) of Chapter 2 of Part 1 of Division 103).

(F) The Translational Cancer Research and Technology Transfer Program (Article 2 (commencing with Section 104175) of Chapter 2 of Part 1 of Division 103).

(G) The Ken Maddy California Cancer Registry (Chapter 2 (commencing with Section 103875) of Part 2 of Division 102).

(H) The California Osteoporosis Prevention and Education Program (Chapter 1 (commencing with Section 125700) of Part 8 of Division 106).

(I) The Preventive Health Care for the Aging Program (Part 4 (commencing with Section 104900) of Division 103).

(J) The California Arthritis Prevention Program (former Section 100185).

(K) The Office of Oral Health (Chapter 3 (commencing with Section 104750) of Part 3 of Division 103).

(L) The Children's Dental Disease Prevention Program (Article 3 (commencing with Section 104770) of Chapter 3 of Part 3 of Division 103).

(M) The Community Water Fluoridation Program (Article 3.5 (commencing with Section 116409) of Chapter 4 of Part 12 of Division 104).

(N) The California Asthma Public Health Initiative (Chapter 6.5 (commencing with Section 104316) of Part 1 of Division 103).

(O) The California Obesity Prevention Initiative (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(P) The School Health Connections program (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(Q) The California Project LEAN (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(R) The California Center for Physical Activity (Section 131085).

(S) The California Diabetes Program (Section 131085).

(T) The Preventive Medicine Residency Program (Section 131090).

(U) The California Epidemiologic Investigation Service (Article 4 (commencing with Section 100325) of Chapter 2 of Part 1 of Division 101).

(V) The Continuing Professional Education Program (Section 131090).

(W) The Injury Surveillance and Epidemiology Program (Part 2 (commencing with Section 104325) of Division 103).

(X) The State and Local Injury Control Program (Chapter 1 (commencing with Section 104325) of Part 2 of Division 103).

(Y) The Office on Disability and Health (former Section 100185).

(Z) The Alzheimer's Disease Program (Article 4 (commencing with Section 125275) of Chapter 2 of Part 5 of Division 106).

(AA) The California Tobacco Control Program (Chapter 1 (commencing with Section 104350) of Part 3 of Division 103).

(5) The Division of Drinking Water and Environmental Management, including, but not limited to, all of the following:

(A) The Medical Waste Management Program (Part 14 (commencing with Section 117600) of Division 104).

(B) The Department of Defense Oversight Program (Radiologic Guidance and Approvals) (Part 9 (commencing with Section 114650) of Division 104).

(C) The Nuclear Emergency Response Program (Part 9 (commencing with Section 114650) of Division 104).

(D) The Institutions Program (Environmental Surveys) (Article 5 (commencing with Section 116025) of Chapter 5 of Part 10 of Division 104).

(E) The Drinking Water Field Management program (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104).

(F) The Environmental Health Specialist Registration Program (Article 1 (commencing with Section 106600) of Chapter 4 of Part 1 of Division 104).

(G) The Sanitation and Radiation Laboratory (Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101); Chapter 4 (commencing with Section 116270) of Part 12 of Division 104).

(H) The Radon Program (Chapter 7 (commencing with Section 105400) of Part 5 of Division 103; Chapter 4 (commencing with Section 116270) of Part 12, and Article 2 (commencing with Section 106750) of Chapter 4 of Part 1, of Division 104).

(I) The Shellfish Sanitation Program (Chapter 5 (commencing with Section 112150) of Part 6 of Division 104).

(J) The Ocean Beach Safety Programs (Article 2 (commencing with Section 115875) of Chapter 5 of Part 10 of Division 104).

(K) The Bioterrorism Planning and Response for Drinking Water, Medical Waste, and Environmental Health program (Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101).

(L) The Safe Drinking Water State Revolving Fund (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104).

(M) The Drinking Water Technical Programs (Chapter 4 (commencing with Section 16270) of Part 12 of Division 104; Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104; Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104; Chapter 5 (commencing with Section 116775) of Part 12 of Division 104; Chapter 5 (commencing with Section 115825) of Part 10 of Division 104; Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code; Section 13411 of the Water Code).

(N) The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) (Division 26.5 (commencing with Section 79500) of the Water Code).

(6) The Division of Environmental and Occupational Disease Control, including, but not limited to, all of the following:

(A) The California Birth Defect Monitoring Program (Chapter 1 (commencing with Section 103825) of Part 2 of Division 102).

(B) The Childhood Lead Poisoning Prevention Program (Chapter 5 (commencing with Section 105275) of Part 5 of Division 103; Article 7 (commencing with Section 124125) of Chapter 3 of Part 2 of Division 106.

(C) The Lead Related Construction Program (Chapter 4 (commencing with Section 105250) of Part 5 of Division 103).

(D) The Epidemiology Studies Laboratory (Sections 25416, former Section 100170, Section 100325, and Section 104324.25).

(E) The Center for Autism and Developmental Disabilities Research and Epidemiology (former Section 100170).

(F) The Cancer Cluster/Environmental Investigations (former Section 100170).

(G) The Toxic Mold Program (Chapter 18 (commencing with Section 26100) of Division 20).

(H) The Federal Agency for Toxic Substances and Disease Registry Health Assessments, Education and Investigations program (former Section 100170).

(I) The Fish Contamination Outreach and Education program (former Section 100170).

(J) The Air Pollution and Cardiovascular Disease in the California Teachers Study Cohort Project (former Section 100170).

(K) The Delta Watershed Fish Project (outreach, education, and training to reduce exposures to mercury in fish) (former Section 100170).

(L) The Environmental Health Laboratory (former Section 100170; Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(M) The Indoor Air Quality program (Chapter 7 (commencing with Section 105400) of Part 5 of Division 103).

(N) The Outdoor Air Quality program (Section 60.9 of the Labor Code).

(O) The Laboratory Response Network for Chemical Terrorism program (former Section 100170; Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(P) The Air Quality and Human Monitoring Support Program (former Section 100170).

(Q) The Hazard Evaluation System and Information Service Program (Article 1 (commencing with Section 105175) of Chapter 2 of Part 5 of Division 103; Section 147.2 of the Labor Code).

(R) The Occupational Health Surveillance and Evaluation Program (Article 1 (commencing with Section 105175) of Chapter 2 of Part 5 of Division 103).

(S) The Occupational Lead Poisoning Prevention Program (Article 2 (commencing with Section 105185) of Chapter 2 of Part 5 of Division 103).

(T) The Occupational Blood Lead Registry (Article 2 (commencing with Section 105185) of Chapter 2 of Part 5 of Division 103).

(7) The Division of Food, Drug and Radiation Safety, including, but not limited to, all of the following:

(A) The Drug Licensing Program (Article 6 (commencing with Section 111615) of Chapter 6 of Part 5 of Division 104).

(B) The Consumer Product Safety Program (Part 3 (commencing with Section 108100) of Division 104).

(C) The Export Program (Article 2 (commencing with Section 110190) of Chapter 2 of Part 5 of Division 104).

(D) The Food Safety Inspection Program (Part 5 (commencing with Section 109875) and Part 6 (commencing with Section 111940) of Division 104).

(E) The Foodborne Illness and Tampering Emergency Response Program (Part 5 (commencing with Section 109875) of Division 104).

(F) The Retail Food Safety Program (Part 7 (commencing with Section 113700) of Division 104).

(G) The Food Safety Industry Education and Training Program (pursuant to Section 110485).

(H) The Medical Device Licensing Program (Article 6 (commencing with Section 111615) of Chapter 6 of Part 5 of Division 104).

(I) The Medical Device Safety Program (Part 5 (commencing with Section 109875) of Division 104).

(J) The Stop Tobacco Access to Kids Enforcement Program (STAKE) (Division 8.5 (commencing with Section 22950) of the Business and Professions Code).

(K) The Food and Drug Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(L) The Drug Safety Program (Part 4 (commencing with Section 109250) and Part 5 (commencing with Section 109875) of Division 104).

(M) The General Food Safety Program (Part 5 (commencing with Section 109875) and Part 6 (commencing with Section 111940) of Division 104).

(N) The Food Testing Program (Chapter 2 (commencing with Section 100250) of Division 101).

(O) The Forensic Alcohol Testing Program (Article 2 (commencing with Section 100700) of Chapter 4 of Part 1 of Division 101).

(P) The Methadone Laboratory Regulating Program (Article 2 (commencing with Section 11839.23) of Chapter 10 of Part 2 of Division 10.5).

(Q) The Radiologic Health Program (Part 9 (commencing with Section 114650) of Division 104).

(R) The Mammography Program (Chapter 6 (commencing with Section 114840) of Part 9 of Division 104).

(S) The Radioactive Materials Licensing and Inspection Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(T) The Radiological Technologist Certification Program (Article 5 (commencing with Section 106955) of Part 1, and Article 3 (commencing with Section 114855) of Chapter 6 of Part 9 of Division 104).

(U) The Radioactive Waste Tracking Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(V) The Radioactive Waste Minimization Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(W) The Low Level Radioactive Waste Management, Treatment and Disposal Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(X) The Statewide Environmental Radiation Monitoring Program (pursuant to Section 114755).

(Y) The Department of Energy Oversight Program (Part 9 (commencing with Section 114650) of Division 104).

(Z) The X-Ray Machine Inspection and Registration and Mammography Quality Standards Act Inspection Program (Article 5 (commencing with Section 106955) of Part 1, and Article 3 (commencing with Section 114855) of Chapter 6 of Part 9 of Division 104).

(8) The Deputy Director for Laboratory Science, including, but not limited to, all of the following:

(A) The Environmental Laboratory Accreditation Program (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).

(B) The Laboratory Central Services Program (Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(C) The National Laboratory Training Network (Section 131085).

(D) The Laboratory Field Services program (Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code).

(b) Under the jurisdiction of the Deputy Director for Licensing and Certification:

(1) The General Acute Care Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(2) The Acute Psychiatric Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(3) The Special Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(4) The Chemical Dependency Recovery Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(5) The Skilled Nursing Facilities Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(6) The Intermediate Care Facilities Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(7) The Intermediate Care Facilities-Developmentally Disabled Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(8) The Intermediate Care Facilities-Developmentally Disabled-Habilitative Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(9) The Intermediate Care Facility-Developmentally Disabled-Nursing Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(10) The Home Health Agencies Licensing Program (Chapter 8 (commencing with Section 1725) of Division 2).

(11) The Referral Agencies Licensing Program (Chapter 2.3 (commencing with Section 1400) of Division 2).

(12) The Adult Day Health Centers Licensing Program (Chapter 3.3 (commencing with Section 1570) of Division 2).

(13) The Congregate Living Health Facilities (Chapter 2 (commencing with Section 1250) of Division 2).

(14) The Psychology Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(15) The Primary Clinics—Community and Free Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(16) The Specialty Clinics—Rehab Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(17) The Dialysis Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(18) The Pediatric Day Health/Respite Care Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(19) The Alternative Birthing Centers Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(20) The Hospice Licensing Program (Chapter 2 (commencing with Section 1339.30) of Division 2).

(21) The Correctional Treatment Centers Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(22) The Medicare/Medi-Cal Certification Program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(23) The Nursing Home Administrator Professional Certification Program (Chapter 2.35 (commencing with Section 1416) of Division 2).

(24) The Certified Nursing Assistants Professional Certification Program (Chapter 2 (commencing with Section 1337) of Division 2).

(25) The Home Health Aides Professional Certification Program (Chapter 8 (commencing with Section 1725) of Division 2).

(26) The Hemodialysis Technicians Professional Certification Program (Chapter 3 (commencing with Section 1247) of Division 2 of the Business and Professions Code; Chapter 10 (commencing with Section 1794) of Division 2).

(27) The Criminal Background Clearance Program (Chapter 2 (commencing with Section 1337), Chapter 3 (commencing with Section 1520), Chapter 3.01 (commencing with Section 1569.15), Chapter 3.4 (commencing with Section 1496.80) of Division 2, and Chapter 4 (commencing with Section 11150) of Division 8).

(c) Under the jurisdiction of the Deputy Director for Health Information and Strategic Planning:

(1) The Refugee Health Program (Subpart G of Part 400 of Title 45 of the Code of Federal Regulations).

(2) The Office of County Health Services (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101; Part 4.7 (commencing with Section 16900) of Division 9 of the Welfare and Institutions Code).

(3) The Medically Indigent Services Program (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101).

(4) The Office of Vital Records (Part 1 (commencing with Section 102100) of Division 102).

(5) The Office of Health Information and Research (Article 1 (commencing with Section 102175) of Chapter 2 of Part 1 of Division 102; Section 128730).

(6) The Local Public Health Services Program (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101).

(7) The Center for Health Statistics (Part 1 (commencing with Section 102100) of Division 102; Section 128730).

(8) The Medical Marijuana Program (Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code).

(d) Under the jurisdiction of the Deputy Director for Primary Care and Family Health:

(1) The Maternal, Child and Adolescent Health program (Part 2 (commencing with Section 123225) of Division 106).

(2) The Adolescent Family Life Program (Article 1 (commencing with Section 124175) of Chapter 4 of Part 2 of Division 106).

(3) The Advanced Practice Nurse Training program (Part 2 (commencing with Section 123225) of Division 106).

(4) The Black Infant Health Program (Part 2 (commencing with Section 123225) of Division 106).

(5) The Breastfeeding Program (Article 3 (commencing with Section 123360) of Chapter 1 of Part 2 of Division 6).

(6) The California Diabetes and Pregnancy Program (Part 2 (commencing with Section 123225) of Division 106).

(7) The California Initiative to Improve Adolescent Health (Part 2 (commencing with Section 123225) of Division 106).

(8) The Childhood Injury Prevention Program (Article 4 (commencing with Section 100325) of Chapter 2 of Division 101).

(9) The Comprehensive Perinatal Services Program (Article 3 (commencing with Section 123475) of Chapter 2 of Part 2; Section 14134.5 of the Welfare and Institutions Code).

(10) The Fetal and Infant Mortality Review Program (Article 1 (commencing with Section 123650) of Chapter 3 of Part 2 of Division 106).

(11) The Human Stem Cell Research Program (Chapter 3 (commencing with Section 125290.10) of Part 5 of Division 106; Chapter 1 (commencing with Section 125300) of Part 5.5 of Division 106).

(12) The Local Health Department Maternal, Child and Adolescent Health Program (Section 123255).

(13) The Maternal Mortality Review Program (Article 4 (commencing with Section 100325) of Chapter 2 of Division 101).

(14) The Oral Health Program (Part 2 (commencing with Section 123225) of Division 106).

(15) The Preconception Health and Health Care Initiative (Part 2 (commencing with Section 123225) of Division 106).

(16) The Regional Perinatal Programs of California (Article 4 (commencing with Section 123550) of Chapter 2 of Part 2 of Division 106).

(17) The Perinatal Dispatch Centers Outreach and Education Program (Article 4 (commencing with Section 123750) of Chapter 3 of Part 2 of Division 106).

(18) The State Early Childhood Comprehensive Services program (Part 2 (commencing with Section 123225) of Division 106).

(19) The Sudden Infant Death Syndrome Program (Article 3 (commencing with Section 123725) of Chapter 3 of Part 2 of Division 106).

(20) The Youth Pilot Program (Chapter 12.85 (commencing with Section 18987) of Part 6 of Division 9 of the Welfare and Institutions Code).

(21) The Office of Family Planning (Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code; Division 24 (commencing with Section 24000) of the Welfare and Institutions Code).

(22) The Community Challenge Grant Program (Section 14504.1 of the Welfare and Institutions Code, and Chapter 14 (commencing with Section 18993) of Part 6 of Division 9 of the Welfare and Institutions Code).

(23) The Information and Education Program (Section 14504.3 of the Welfare and Institutions Code).

(24) The Family PACT Program (Sections 14132(aa) and 24005 of the Welfare and Institutions Code).

(25) The Male Involvement Program (Section 14504 of the Welfare and Institutions Code).

(26) The TeenSMART Outreach Program (Section 14504.2 of the Welfare and Institutions Code).

(27) The Battered Women Shelter Program (Chapter 6 (commencing with Section 124250) of Part 2 of Division 106).

(28) The Women, Infants and Children Program (Article 1 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106).

(29) The WIC Supplemental Nutrition Program (Article 1 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106).

(30) The Farmers Market Nutrition Program (Section 123279).

(31) Genetic Disease Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(32) The Newborn Screening Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(33) The Prenatal Screening Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5,49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

(4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.

(5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

(6) Sections 217.6, 1507, 1786, 4011, 5671, 5674, 5700, 5701, 5701.5, 7715, and 15700 of the Fish and Game Code.

(7) Sections 855, 51010, and 551017.1 of the Government Code. For purposes of subdivision (s) of Section 6254 of the Government Code, the term "State Department of Health Services" is here-by deemed to refer to the State Department of Public Health.

(8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

(B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

(C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and Part 3 of Division 101.

(D) Division 102, including Sections 102230 and 102231.

(E) Division 103, including Sections 104145, 104160, 104181, 104182, 104182.5, 104187, 104191, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and 105430.

(F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855, 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475, 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736, 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375, 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

(G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480, 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

(H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

(9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and 11520 of the Insurance Code.

(10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009, and 9022 of the Labor Code.

(11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

(12) Section 4806 of the Probate Code.

(13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308, 44103, and 71081 of the Public Resources Code.

(14) Section 10405 of the Public Contract Code.

(15) Sections 883, 1507, and 7718 of the Public Utilities Code.

(16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

(17) Section 11020 of the Unemployment Insurance Code.

(18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

(19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24 of the Welfare and Institutions Code. Payment for services provided under the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through the State Department of Health Care Services. The State Department of Public Health and the State Department of Health Care Services may enter into an interagency agreement for the administration of those payments.

(20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554, 13554.2, 13816,

13819, 13820, 13823, 13824, 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864, 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026, 14027, and 14029 of the Water Code.

131053. In the event of any conflict between Sections 131050, 131051, and 131052, Section 131052 shall prevail over Section 131051, and Section 131050 shall prevail over Sections 131051 and 131052.

131055. (a) All regulations and orders adopted by the former State Department of Health Services and any of its predecessors in effect immediately preceding the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any action by or against the former State Department of Health Services or any of its predecessors pertaining to matters vested in the State Department of Public Health by this chapter shall not abate but shall continue in the name of the State Department of Public Health, and the State Department of Public Health shall be substituted for the former State Department of Health Services and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(b) On and after the operative date of this section, the unexpended balance of all funds available for use by the former State Department of Health Services or any of its predecessors in carrying out any functions transferred to the State Department of Public Health shall be available for use by the State Department of Public Health.

(c) All books, documents, records, and property of the former State Department of Health Services pertaining to functions transferred to the Department of Public Health shall be transferred to the State Department of Public Health.

(d) On and after the operative date of this section, positions other than that of the State Public Health Officer and the Chief Deputy filled by appointment by the Governor in the former State Department of Health Services whose principal assignment was to perform functions transferred to the State Department of Public Health shall be transferred to the State Department of Public Health. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law unless otherwise provided.

(e) Every officer and employee of the former State Department of Health Services who is performing a function transferred to the State Department of Public Health and who is serving in the state civil service,

other than as a temporary employee, shall be transferred to the State Department of Public Health pursuant to the provisions of Section 19050.9 of the Government Code. The status, position, and rights of any officer or employee of the former State Department of Health Services shall not be affected by the transfer and shall be retained by the person as an officer or employee of the State Department of Public Health, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

131056. The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(a) To enforce its regulations.

(b) To enjoin and abate nuisances dangerous to health.

(c) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to the public health.

(d) To protect and preserve the public health.

It may defend all actions and proceedings involving its powers and duties. In all actions and proceedings it shall sue and be sued under the name of the department.

131057. With the approval of the Department of Finance, and for use in the furtherance of the work of the department, the director may accept (a) grants of interest in real property, and (b) gifts of money from public agencies or from organizations or associations organized for scientific, educational, or charitable purposes.

Article 2. Regulatory Authorization and Review

131200. The department may adopt and enforce regulations for the execution of its duties.

131205. Notwithstanding any other provision of law, the department shall submit all of its regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department deems it appropriate to implement the proposed regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to these recommendations.

131210. The department, after consultation with and approval by the Conference of Local Health Officers, shall by regulation establish

standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. These standards may include standards for the maintenance of records of services, finances, and expenditures, that shall be reported to the director in a manner and at times as the director may specify.

131215. (a) When a dispute arises as to the interpretation or enforcement of regulations of the department that are being enforced by a city, county, city and county, or district, a request for clarification or interpretation may be submitted to the department. The department shall make a determination of the proper interpretation and required enforcement when so requested by a party to the dispute.

(b) In making its determination, the department may conduct a hearing where all interested parties may present relative comments or arguments.

(c) Determinations of the department made pursuant to this section shall be transmitted to the concerned local agency and the involved party or parties within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the parties subject to the regulations of the department, except when the matter may be subject to judicial review.

131220. Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, the director may, after a request by a board of supervisors of an affected county and after a public hearing held in accordance with Section 11346 of the Government Code, waive regulations pertaining to the provision of hospital services in a hospital operated by a county or under contract to a county for a county with a population of 200,000 or less on January 1, 1980, if the director makes a finding that the waiver would not affect adversely the health and safety of persons in the county. The authority contained in this section shall be in addition to, and shall not supersede or limit, any other provision of law authorizing the waiver by the department of requirements contained in regulations adopted by the department relating to health facilities.

131225. (a) Notwithstanding any other provision of law, the department by regulation may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to this code by the department.

(b) The department may by regulation set the fee for the two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

CHAPTER 3. PUBLIC HEALTH ADVISORY COMMITTEE

131230. (a) The director shall convene a Public Health Advisory Committee to provide expert advice and make recommendations on the development of policies and programs that seek to prevent illness and promote the public's health.

(b) The advisory committee shall include representatives from a broad cross section of public health stakeholders which may include academia, biotechnology, business, community based organizations, emergency services, local government, health departments, medicine, nursing, public health laboratories, social marketing, consumers, and other sectors of the public health community.

(c) The advisory committee shall consist of 15 members. The Governor shall appoint nine members, the Speaker of the Assembly three members, and Senate Committee on Rules three members. All appointees shall have experience or background working in a part of the broad cross section of public health stakeholders identified in subdivision (b).

(d) Committee members shall serve on a voluntary basis and shall not receive any compensation.

(e) The advisory committee shall identify strategies to improve public health program effectiveness, identify emerging public health issues, and make recommendations, as necessary, on programs and policies to improve the health and safety of Californians.

(f) The committee shall be under the direction of the director and shall be advisory in character and shall not be delegated any administrative authority or responsibility.

(g) The advisory committee shall convene twice per year, and may convene more often, if necessary, to provide expert advice to the department. Meetings of the committee shall be open to the public and shall comply with applicable open meeting laws.

(h) The director or his or her designee shall serve as chair of the public health advisory committee. Nothing in this section shall be construed as preventing or restricting the State Public Health Officer from creating other advisory committees to advise the director with regard to other issues and problems.

(i) This chapter shall remain in effect only until June 30, 2011, and as of that date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 35. (a) No contract, lease, license, bond, or any other agreement to which the former State Department of Health Services or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the renamed State Department of Health Care Services and the newly formed State

Department of Public Health assuming all of the rights, obligations, liabilities, and duties of the former State Department of Health Services and any of its predecessors as relates to the duties, powers, purposes, responsibilities, and jurisdiction vested by this act in each of the resulting departments. The assumption by each department shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the former State Department of Health Services or any of its predecessors on or before the operative date of this section related to the duties, powers, purposes, responsibilities, and jurisdiction vested by this act in the renamed State Department of Health Care Services or in the newly formed State Department of Public Health, shall become the indebtedness of the State Department of Health Care Services or of the State Department of Public Health, as they relate to responsibilities assigned to each resulting department. Any ongoing obligations or responsibilities of the former State Department of Health Services for managing and maintaining these bond issuances shall be transferred to the newly formed State Department of Public Health or retained by the renamed State Department of Health Care Services, as appropriate, without impairment to any security contained in the bond instrument.

(b) The renamed State Department of Health Care Services retains and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services with respect to all duties, powers, purposes, responsibilities, and jurisdiction not transferred to the State Department of Public Health.

(c) All officers and employees of the former State Department of Health Services who are serving in the state civil service, other than as temporary employees assigned to programs, not transferred to the State Department of Public Health shall be retained by the renamed State Department of Health Care Services. The status, positions, and rights of those persons shall not be affected by the renaming and shall be retained by those persons as officers and employees of the renamed department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(d) The State Department of Health Care Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the former State Department of Health Services, with respect to the functions that were not transferred to the State Department of Public Health pursuant to this act.

(e) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is assigned pursuant to this act.

(f) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred or reassigned by this act, shall abate by reason of the transfer or assigning of the program, duty, responsibility, or authorization under this act.

SEC. 36. (a) The reorganization of the former State Department of Health Services pursuant to Sections 1 to 35, inclusive, shall be budget neutral; that is, it is the intent of the Legislature not to provide state funding for the State Department of Public Health and the State Department of Health Care Services in excess of the total state funding previously appropriated to the former State Department of Health Services, with possible caseload and inflation adjustments.

(b) The reorganization shall be implemented without the additional appropriation of state funds. However, the Legislature finds and declares that to implement this act, funding adjustments may be required to align appropriation authority and to provide for anticipated expenditures to the appropriate funding sources.

(c) The annual budget for the State Department of Public Health and State Department of Health Care Services shall be proposed and considered in the process for review of the annual Budget Act.

SEC. 37. Sections 1 to 35, inclusive, of this act shall become operative on July 1, 2007.

SEC. 38. (a) The Office of Change Management is hereby established within the State Department of Health Services.

(b) In order to implement this act, the State Department of Health Services may redirect the positions and resources necessary to operate the Office of Change Management. Prior to July 1, 2007, the Office of Change Management shall be responsible for planning and guiding the implementation of transition activities associated with reorganizing the functions of the State Department of Health Services pursuant to this act.

(c) This section shall be operative only until July 1, 2007, and as of that date is repealed.

SEC. 39. Any section of any act, other than the act for the maintenance of the codes, enacted by the Legislature during the 2006 calendar year that takes effect on or before January 1, 2007, 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 the amendment, amendment and renumbering, addition, repeal and addition, or repeal of that section by this act whether that act is enacted prior to, or subsequent to, the enactment of this act.

CHAPTER 242

An act to amend Section 35795 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 35795 of the Vehicle Code is amended to read:

35795. (a) (1) The Department of Transportation may charge a fee for the issuance of permits pursuant to this article.

(2) The fee established by the Department of Transportation pursuant to this section shall be established by a regulation adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be calculated to produce a total estimated revenue that is not more than the estimated total cost to that department for administering this article.

(3) Special services necessitated by unusually large or heavy loads requiring engineering investigations, or other services, may be billed separately for each permit.

(4) The funds collected by the Department of Transportation pursuant to this subdivision shall be deposited in the State Highway Account in the State Transportation Fund.

(b) (1) Local authorities may charge a fee for the issuance of permits pursuant to this article. However, the fee established by a local authority pursuant to this section shall be established by ordinance or resolution adopted after notice and hearing. The fee shall be calculated to produce a total estimated revenue that is not more than the estimated total cost incurred by the local authority in administering its authority under this article and shall not exceed the fee developed by the Department of Transportation pursuant to subdivision (a). The fee for the issuance of permits shall be developed in consultation with representatives of local government and the commercial trucking industry. Notice of the hearing

shall be by publication as provided in Section 6064 of the Government Code. The hearing shall be held before the legislative body of the local authority. All objections shall be considered and interested parties shall be afforded an adequate opportunity to be heard in respect to their objections.

(2) Special services necessitated by unusually large or heavy loads requiring engineering investigations, escorts, tree trimming, or other services, excluding services necessary to provide the notification required under this section and services that are within the scope of the local authority's ordinary duty to provide, shall be billed separately for each permit.

(3) For purposes of determining whether, under paragraph (2), special services are necessitated by an unusually large or heavy load, a local authority shall be governed by the criteria set forth in subdivision (b) of Section 1411.3 of Title 21 of the California Code of Regulations.

(c) Nothing in this section shall limit or restrict the application of Section 35782.

CHAPTER 243

An act to add Section 13.5 to the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to water.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 13.5 is added to the County Water Authority Act (Chapter 545 of the Statutes of 1943), to read:

SEC. 13.5. An authority formed pursuant to this act shall prepare and submit, at its own expense, a report to the Legislature, not before January 1, 2008, and not later than January 1, 2009, regarding the implementation of the procedures governing the meetings and actions of the standing committees of the board of directors that were adopted by the board of directors in 2004 or 2005.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the

Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 244

An act to amend Section 20175.2 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 20175.2 of the Public Contract Code is amended to read:

20175.2. (a) (1) This section provides an alternative procedure for bidding on building construction projects applicable in cities in the Counties of Solano and Yolo and the City of Victorville upon approval of the appropriate city council.

(2) These cities may award the project using either the lowest responsible bidder or by best value.

(b) (1) It is the intent of the Legislature to enable cities to utilize cost-effective options for building and modernizing public facilities. The Legislature also recognizes the national trend, including authorization in California, to allow public entities to utilize design-build contracts as a project delivery method. It is not the intent of the Legislature to authorize this procedure for transportation facilities, including, but not limited to, roads and bridges.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process. The Legislature also finds that the cost-effective benefits to cities are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

(3) It is the intent of the Legislature to provide an alternative and optional procedure for bidding and building construction projects for cities.

(4) The design-build approach may be used, but is not limited to use, when it is anticipated that it will: reduce project cost, expedite project completion, or provide design features not achievable through the design-bid-build method.

(5) If a city council elects to proceed under this section, the city council shall establish and enforce, for design-build projects, a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the city or the design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(c) As used in this section:

(1) "Best value" means a value determined by objectives relative to price, features, functions, and life cycle costs.

(2) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services, as needed, pursuant to a design-build contract.

(4) "Project" means the construction of a building and improvements directly related to the construction of a building, but does not include streets and highways, public rail transit, or water resources facilities and infrastructure.

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The city shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the buildings and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the city's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the city to assist in the development of the project-specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the city shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the city. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the

city to inform interested parties of the contracting opportunity, to include the methodology that will be used by the city to evaluate proposals, and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant factors which the city reasonably expects to consider in evaluating proposals, including cost or price and all nonprice related factors.

(iii) The relative importance of weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of subparagraph (A), if a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors, other than cost or price, when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the city chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately, or incorporate into the request for proposal, applicable rules and procedures to be observed by the city to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The city shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the city. In preparing the questionnaire, the city shall consult with the construction industry, including representatives of the building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, as well as a financial statement that assures the city that the design-build entity has the capacity to complete the project.

(iii) The licenses, registration, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(iv) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(v) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91–596) settled against any member of the design-build entity, and information concerning workers' compensation experience history and worker safety program.

(vi) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(vii) Any instance where the entity, its owners, officers, or managing employees defaulted on a construction contract.

(viii) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(ix) Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.

(x) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(xi) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the design-build contract.

(B) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter

3.5 of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(4) The city shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the following criteria:

(A) A competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. Awards shall be made to the lowest responsible bidder.

(B) The city may use a design-build competition based upon best value and other criteria set forth in paragraph (2) of subdivision (d). The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall each represent at least 10 percent of the total weight of consideration given to all criteria factors: price, technical design and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record. Each of these factors shall be weighted equally.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the city shall publicly announce its award, identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the city's second and third ranked design-build entities.

(v) For the purposes of this paragraph, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For the purposes of this paragraph, a bidder's "safety record" shall be deemed "acceptable" if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their average Total Recordable Injury/Illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, or if the bidder is a party

to an alternative dispute resolution system, as provided for in Section 3201.5 of the Labor Code.

(e) (1) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding to cover the contract amount for nondesign services and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(2) Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the city.

(f) All subcontractors that were not listed by the design-build entity in accordance with clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) shall be awarded by the design-build entity in accordance with the design-build process set forth by the city in the design-build package. All subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the city.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the city.

(h) The city may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(i) Contracts awarded pursuant to this section shall be valid until the project is completed.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(k) (1) If the city elects to award a project pursuant to this section, retention proceeds withheld by the city from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor

thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the city and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the city and the design-build entity from any payment made by the design-build entity to the subcontractor.

(*l*) Each city that elects to proceed under this section and uses the design-build method on a public works project shall submit to the Legislative Analyst's Office before December 1, 2009, a report containing a description of each public works project procured through the design-build process that is completed after January 1, 2006, and before November 1, 2009. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.

(2) The gross square footage of the project.

(3) The design-build entity that was awarded the project.

(4) The estimated and actual project costs.

(5) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protests.

(6) An assessment of the prequalification process and criteria.

(7) An assessment of the effect of retaining 5 percent retention on the project.

(8) A description of the Labor Force Compliance Program and an assessment of the project impact, where required.

(9) A description of the method used to award the contract. If the best value method was used, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(10) An assessment of the project impact of "skilled labor force availability."

(11) An assessment of the most appropriate uses for the design-build approach.

(m) Any city that elects not to use the authority granted by this section may submit a report to the Legislative Analyst's Office explaining why the city elected not to use the design-build method.

(n) On or before January 1, 2010, the Legislative Analyst's Office shall report to the Legislature on the use of the design-build method by cities pursuant to this section, including the information listed in

subdivision (*l*). The report may include recommendations for modifying or extending this section.

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

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to build public facilities in a cost-effective manner in the City of Victorville.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 245

An act to amend Sections 54236 and 54237 of the Government Code, relating to surplus residential property.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 54236 of the Government Code is amended to read:

54236. (a) As used in this article, the term "offer" means to solicit proposals prior to sale in a manner calculated to achieve a sale under the conditions specified, and to hold the offer open for a reasonable period of time, which shall be no more than one year, unless the time is extended by the selling agency at its discretion, for a period to be specified by the selling agency.

(b) As used in this article, the term "affordable price" means, in the case of a purchaser, other than a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States

Department of Housing and Urban Development, issued pursuant to Section 235 of the National Housing Act; and, in the case of a purchaser that is a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

(c) As used in this article, the term "single-family residence" means a real property improvement used, or intended to be used, as a dwelling unit for one family.

(d) As used in this article, the term "surplus residential property" means land and structures owned by any agency of the state that is determined to be no longer necessary for the agency's use, and that is developed as single-family or multifamily housing, except property being held by the agency for the purpose of exchange.

Surplus residential properties shall only include land and structures that, at the time of purchase by the state, the state had intended to remove the residences thereon and to use the land for state purposes.

(e) As used in this article, the term "displacement" includes, but is not limited to, persons who will have to move from surplus residential property that they occupy when it is sold by a state agency because they are unable to afford to pay the price that the state agency is asking for the residential property.

(f) As used in this article, the term "fair market value" shall mean fair market value as of the date the offer of sale is made by the selling agency pursuant to the provisions of this article. This definition shall not apply to terms of sale that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code if the study was initiated before this measure was enacted.

(g) As used in this article, the term "affordable rent" means, in the case of an occupant person or family, other than a person or family of low or moderate income, rent for residential property that is not more than 25 percent of the occupant household's gross monthly income, and in the case of an occupant person or family of low or moderate income, rent for residential property that is not more than the percentage of the adjusted income of the occupant person or family as permitted under regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937, but not in excess of the market rental value for comparable property.

(h) As used in this article, the term "area median income" means median household income, adjusted for family size as determined in

accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 235 of the National Housing Act, as amended (P.L. 90-448), for the Standard Metropolitan Statistical Area (S.M.S.A.), in which surplus residential property to be disposed of pursuant to this article is located, or the county in which the property is located, if it is outside an S.M.S.A.

(i) As used in this article, the term "persons and families of low or moderate income" means persons and families who meet both of the following conditions:

(1) Meet the definition of persons and families of low or moderate income set forth in Section 50093 of the Health and Safety Code.

(2) Have not had an ownership interest in real property in the last three years.

(j) As used in this article, the term "lower income households" means lower income households as defined in Section 50079.5 of the Health and Safety Code.

SEC. 2. Section 54237 of the Government Code is amended to read:

54237. (a) Notwithstanding Section 11011.1, any agency of the state disposing of surplus residential property shall do so in accordance with the following priorities and procedures:

(1) First, all single family residences presently occupied by their former owners shall be offered to those former owners at the appraised fair market value.

(2) Second, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property two years or more and who are persons and families of low or moderate income.

(3) Third, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property five years or more and whose household income does not exceed 150 percent of the area median income.

(4) Fourth, a single-family residence shall not be offered, pursuant to this article, to present occupants who are not the former owners of the property if the present occupants have had an ownership interest in real property in the last three years.

(b) Single-family residences offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) shall be offered to those present occupants at an affordable price, which price shall not be less than the price paid by the agency for original acquisition, unless the acquisition price was greater than the current fair market value, and shall not be greater than fair market value. When single-family residences are offered to present occupants at a price that is less than fair market value, the selling agency shall impose terms, conditions, and restrictions to

assure that the housing will remain available to persons and families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for these prices, terms, conditions and restrictions. The selling agency shall provide repairs required by lenders and government housing assistance programs, or, at the option of the agency, provide the present occupants with a replacement dwelling pursuant to Section 54237.5.

(c) If single-family residences are offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a), the occupants shall certify their income and assets to the selling agency. When single-family residences are offered to present occupants at a price that is less than fair market value, the selling agency may verify the certifications, in accordance with procedures utilized for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency and with regulations adopted for the verification of assets by the United States Department of Housing and Urban Development. The income and asset limitations and term of residency requirements of paragraphs (2) and (3) of subdivision (a) shall not apply to sales that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code, if the study was initiated before this measure was enacted.

(d) All other surplus residential properties and all properties described in paragraphs (1), (2), and (3) of subdivision (a) that are not purchased by the former owners or the present occupants shall be then offered to housing-related private and public entities at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that the purchasing entity shall cause the property to be rehabilitated and developed as limited equity cooperative housing with first right of occupancy to present occupants, except that where the development of cooperative or cooperatives is not feasible, the purchasing agency shall cause the property to be used for low and moderate income rental or owner-occupied housing, with first right of occupancy to the present tenants. The price of the property in no case shall be less than the price paid by the agency for original acquisition unless the acquisition price was greater than current fair market value and shall not be greater than fair market value. Subject to the foregoing, it shall be set at the level necessary to provide housing at affordable rents and affordable prices for present tenants and persons and families of low or moderate income. When residential property is offered at a price that is less than fair market

value, the selling agency shall impose terms, conditions, and restrictions as will assure that the housing will remain available to persons and families of low or moderate income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for prices, terms, conditions, and restrictions.

(e) Any surplus residential properties not sold pursuant to subdivisions (a) to (d), inclusive, shall then be sold at fair market value, with priority given first to purchasers who are present occupants and then to purchasers who will be owner occupants.

CHAPTER 246

An act to amend Section 4050 of the Water Code, relating to water.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 4050 of the Water Code is amended to read:

4050. (a) Upon written request submitted to the department by the owners or governing bodies of at least 15 percent of the conduits lawfully entitled to directly divert water from the streams or other sources of water supply in any service area, the department may, if it determines that it is necessary, appoint a watermaster and if necessary, in its discretion, one or more deputy watermasters for the service area.

(b) Upon petition, made to a court in which a relevant judicial decree has been entered, by the owners or governing bodies of at least 15 percent of the conduits lawfully entitled to directly divert water from the streams or other sources of water supply in any service area, the court may appoint a public agency as watermaster under this part to replace the watermaster appointed by the department.

(c) (1) A watermaster appointed pursuant to subdivision (b) shall have the powers and duties prescribed by the court pursuant to the exercise of its judicial authority, which may include any powers and duties prescribed by this part.

(2) This part shall apply to the service area for which a watermaster is appointed pursuant to subdivision (b) only to the extent determined by the court.

(d) (1) If in response to a petition made to a court, the court appoints a watermaster in a service area in which the department previously

appointed a watermaster, upon the appointment of the new watermaster becoming effective, the department shall not be responsible for carrying out any of the duties and obligations of this part, including any responsibility for the funding of the expenses of administration or distribution pursuant to Chapter 7 (commencing with Section 4200).

(2) If in response to a petition made to a court, the court appoints a watermaster in a service area in which the department previously appointed a watermaster, upon the appointment of the new watermaster becoming effective and in the discretion of the department, any fixed waterflow measuring device and fixed distribution structure installed by the department shall either be removed from the service area by the department, or transferred at no charge to the new watermaster appointed by the court. With respect to any waterflow measuring device or fixed distribution structure transferred to the new watermaster, all rights, duties, and obligations of the department shall accompany the transfer and shall be assumed by the new watermaster, and the new watermaster shall hold the department harmless for any and all claims or causes of action relative to the items transferred that arise subsequent to the transfer.

CHAPTER 247

An act to amend Section 66452.5 of the Government Code, relating to subdivisions.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) (1) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body.

(2) The appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken.

(3) Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. The hearing shall be held within 30 days

after the date of a request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) (1) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. The appeal shall be filed in writing with the clerk of the legislative body within 10 days after the action of the appeal board from which the appeal is being taken.

(2) After the filing of an appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of the request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal.

(c) (1) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b) of this section. If no further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify or state that approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

(2) If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify or state that approval.

(d) (1) Any interested person adversely affected by a decision of the advisory agency or appeal board may file an appeal with the legislative body concerning any decision of the advisory agency or appeal board. The appeal shall be filed with the clerk of the legislative body within 10 days after the action of the advisory agency or appeal board that is the subject of the appeal. Upon the filing of the appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of a request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. The hearing may be a public hearing for which notice shall be given in the time and manner provided.

(2) Upon conclusion of the hearing, the legislative body shall, within 10 days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. The legislative body may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make any findings that are not inconsistent with the provisions of this chapter or any local ordinance adopted pursuant to this chapter.

(e) Each decision made pursuant to this section shall be supported by findings that are consistent with the provisions of this division and any local ordinance adopted pursuant to this division.

(f) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to the hearing. The notice requirement of this subdivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider or from persons appealing or filing an appeal for expenses incurred pursuant to this section.

CHAPTER 248

An act to amend Section 12751.3 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 12751.3 of the Public Utilities Code is amended to read:

12751.3. (a) The purpose of this section is to provide affected districts with an alternative acquisition process that will result in reduced costs to ratepayers. Notwithstanding Section 12751, when the expenditure for the purchase of supplies and materials exceeds fifty thousand dollars ($50,000) and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the board pursuant to this section.

(b) The best value at the lowest cost acquisition policies adopted pursuant to subdivision (a) shall include the following:

(1) Price and service level proposals that reduce the district's overall operating costs.

(2) Supplies and materials standards that support the district's strategic supplies and materials acquisition and management program direction.

(3) A procedure for protest and resolution.

(c) For purposes of this section, "best value at the lowest cost acquisition" means a competitive procurement process whereby the award of a contract for supplies and materials may take into consideration any of the following factors:

(1) The total cost to the district of its use or consumption of supplies and materials.

(2) The operational cost or benefit incurred by the district as a result of the contract award.

(3) The value to the district of vendor-added services.

(4) The quality, effectiveness, and innovation of supplies, materials, and services.

(5) The reliability of delivery or installation schedules.

(6) The terms and conditions of product warranties and vendor guarantees.

(7) The financial stability of the vendor.

(8) The vendor's quality assurance program.

(9) The vendor's experience with the provision of supplies, materials, and services.

(10) The consistency of the vendor's proposed supplies, materials, and services with the district's overall supplies and materials procurement program.

(11) The economic benefits to the general community related to job creation or retention.

(d) If a district that did not purchase supplies and materials by contract let pursuant to this section before January 1, 2006, elects to purchase supplies and materials by contract, let in accordance with best value acquisition policies adopted by the board pursuant to this section, the district shall submit a report to the Legislative Analyst on or before January 1, 2011. The district shall include in the report a summary of the costs and benefits of best value acquisition compared to traditional low bid procurement practices. The report shall also include statistics showing the number of contracts awarded to small businesses, minority-owned businesses, and new businesses and the number of years each contract awardee had been in business. The report shall also include an analysis of the effects of best value procurement practices on these businesses, the nature of any disputes arising from the use of best value procurement practices, and the status of those disputes. On or before April 1, 2011, the Legislative Analyst shall report to the Legislature on the use of "best value at lowest cost acquisition" procurement practices used by municipal utility districts, and recommend whether to modify this section and extend the authority of additional districts to elect to purchase supplies and materials by contract let in accordance with best value acquisition policies, beyond January 1, 2012.

(e) The district shall ensure that all businesses have a fair and equitable opportunity to compete for, and participate in, district contracts and shall also ensure that discrimination in the award and performance of contracts does not occur on the basis of race, color, sex, national origin, marital status, sexual preference, creed, ancestry, medical condition, or retaliation for having filed a discrimination complaint in the performance of district contractual obligations.

(f) A district that did not purchase supplies and materials by contract let pursuant to this section before January 1, 2006, shall not purchase supplies and materials by contract let pursuant to this section after January 1, 2012.

CHAPTER 249

An act to amend Section 123105 of the Health and Safety Code, and to amend Sections 4683 and 4690 of the Probate Code, relating to medical information.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 123105 of the Health and Safety Code is amended to read:

123105. As used in this chapter:

(a) "Health care provider" means any of the following:

(1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.

(5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.

(6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.

(9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.

(10) A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(12) A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.

(b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.

(c) "Patient" means a patient or former patient of a health care provider.

(d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment

provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.

(e) "Patient's representative" or "representative" means any of the following:

(1) A parent or guardian of a minor who is a patient.

(2) The guardian or conservator of the person of an adult patient.

(3) An agent as defined in Section 4607 of the Probate Code, to the extent necessary for the agent to fulfill his or her duties as set forth in Division 4.7 (commencing with Section 4600) of the Probate Code.

(4) The beneficiary as defined in Section 24 of the Probate Code or personal representative as defined in Section 58 of the Probate Code, of a deceased patient.

(f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

SEC. 2. Section 4683 of the Probate Code is amended to read:

4683. Subject to any limitations in the power of attorney for health care:

(a) An agent designated in the power of attorney may make health care decisions for the principal to the same extent the principal could make health care decisions if the principal had the capacity to do so.

(b) The agent may also make decisions that may be effective after the principal's death, including the following:

(1) Making a disposition under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(2) Authorizing an autopsy under Section 7113 of the Health and Safety Code.

(3) Directing the disposition of remains under Section 7100 of the Health and Safety Code.

(4) Authorizing the release of the records of the principal to the extent necessary for the agent to fulfill his or her duties as set forth in this division.

SEC. 3. Section 4690 of the Probate Code is amended to read:

4690. (a) If the principal becomes wholly or partially incapacitated, or if there is a question concerning the capacity of the principal, the agent

may consult with a person previously designated by the principal for this purpose, and may also consult with and obtain information needed to carry out the agent's duties from the principal's spouse, physician, supervising health care provider, attorney, a member of the principal's family, or other person, including a business entity or government agency, with respect to matters covered by the power of attorney for health care.

(b) Except as set forth in subdivision (c), a person described in subdivision (a) from whom information is requested shall disclose information that the agent requires to carry out his or her duties. Disclosure under this section is not a waiver of any privilege that may apply to the information disclosed.

CHAPTER 250

An act to amend Sections 42285 and 42286 of, and to repeal Section 42285.2 of, the Education Code, relating to schools.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 42285 of the Education Code is amended to read:

42285. (a) For the purposes of Section 42284, a necessary small high school is a high school with an average daily attendance of less than 301 that comes within any of the following conditions:

(1) The projection of its future enrollment on the basis of the enrollment of the elementary schools in the district shows that within eight years the enrollment in high school in grades 9 to 12, inclusive, will exceed 300 pupils.

(2) Any one of the following combinations of distance and units of average daily attendance applies:

(A) The high school had an average daily attendance of less than 100 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than 15 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 20 miles or 25 percent of the pupils would be required to travel 30 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(B) The high school had an average daily attendance of 100 or more and less than 150 in grades 9 to 12, inclusive, during the preceding fiscal

year and is more than 10 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 18 miles or 25 percent of the pupils would be required to travel 25 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(C) The high school had an average daily attendance of 150 or more and less than 200 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than 7½ miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 15 miles or 25 percent of the pupils would be required to travel 20 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(D) The high school had an average daily attendance of 200 or more and less than 301 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than five miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 10 miles or 25 percent of the pupils would be required to travel 15 miles to the nearest other public high school.

(3) Topographical or other conditions exist in the district which would impose unusual hardships on the pupils if the number of miles specified above were required to be traveled. In these cases, the Superintendent may, when requested, and after investigation, grant exceptions from the distance requirements.

(4) The Superintendent has approved the recommendation of a county committee on school district organization designating one of two or more schools as necessary isolated schools in a situation where the schools are operated by two or more districts and the average daily attendance of each of the schools is less than 301 in grades 9 to 12, inclusive.

(b) For the purposes of Section 42284, a necessary small high school also includes any of the following:

(1) The only high school maintained by a unified school district.

(2) A high school maintained by a school district for the exclusive purpose of educating juvenile hall pupils or pupils with exceptional needs.

(3) (A) The Sea View Elementary School in the Coachella Valley Unified School District, as long as the amount of average daily attendance of that school is 286 or less.

(B) The West Shores High School in the Coachella Valley Unified School District, as long as the amount of average daily attendance of that school is 286 or less.

(c) For the purposes of Section 42284, a necessary small high school does not include a continuation school.

(d) For each fiscal year, the high school and junior high school average daily attendance figures specified in subdivision (a) and the ranges of average daily attendance specified in paragraph (2) of subdivision (a) shall be reduced by the statewide average rate of excused absence reported for high school districts for the 1996–97 fiscal year pursuant to Section 42238.7, with the resultant figures and ranges rounded to the nearest integer.

SEC. 2. Section 42285.2 of the Education Code is repealed.

SEC. 3. Section 42286 of the Education Code is amended to read:

42286. (a) Except as required under subdivision (b), if a high school is determined to be a necessary small high school under Section 42285, that status shall not be changed except as a review of the determinative factors made every five years following the date of the determination indicates that the determination should be changed.

(b) If a high school is determined to be a necessary small high school under paragraph (3) of subdivision (b) of Section 42285, that status shall not be changed except as a review of the determinative factors made every two years following the date of the determination indicates that the determination should be changed.

(c) Any high school that has not been determined to be a necessary small high school under Section 42285, may be determined to be a necessary small high school at the beginning of any fiscal year if it meets the criteria specified in Section 42285.

CHAPTER 251

An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 107.4 of the Revenue and Taxation Code is amended to read:

107.4. For purposes of paragraph (1) of subdivision (a) of Section 107, there is no independent possession or use of land or improvements if that possession or use is pursuant to a contract that includes, but is not limited to, a long-term lease, for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for

active duty military personnel and their dependents, if all of the following criteria are met:

(a) The military family housing constructed and managed by private contractor is situated on a military facility under military control, and the construction of that housing is performed under military guidelines in the same manner as construction that is performed by the military.

(b) All services normally provided by a municipality are required to be purchased from the military facility or a provider designated by the military.

(c) The private contractor is not given the right and ability to exercise any significant authority and control over the management or operation of the military family housing, separate and apart from the rules and regulations of the military.

(d) The number of units, the number of bedrooms per unit, and the unit mix are set by the military, and may not be changed by the contractor without prior approval by the military.

(e) Tenants are designated by a military housing agency.

(f) Financing for the project is subject to the approval of the military in its sole discretion.

(g) Rents charged to military personnel or their dependents are set by the military.

(h) The military controls the distribution of revenues from the project to the private contractor, and the private contractor is allowed only a predetermined profit or fee for constructing the military family housing.

(i) Evictions from the housing units are subject to the military justice system.

(j) The military prescribes rules and regulations governing the use and occupancy of the property.

(k) The military has the authority to remove or bar persons from the property.

(*l*) The military may impose access restrictions on the contractor and its tenants.

(m) Any reduction or, if that amount is unknown, the private contractor's reasonable estimate of savings, in property taxes on leased property used for military housing under the Military Housing Privatization Initiative (10 U.S.C. Sec. 2871 and following) shall inure solely to the benefit of the residents of the military housing through improvements, such as a child care center provided by the private contractor.

(n) The military family housing is constructed, renovated, rehabilitated, remodeled, replaced, or managed under the Military Housing Privatization Initiative, or any successor to that law.

(o) For purposes of this section, "military facility under military control" means a military base that restricts public access to the military base.

CHAPTER 252

An act to add Section 6597 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 6597 is added to the Revenue and Taxation Code, to read:

6597. (a) (1) Any person who knowingly collects sales tax reimbursement, as defined in Section 1656.1 of the Civil Code, or who knowingly collects use tax pursuant to Chapter 3 (commencing with Section 6201), and who fails to timely remit that sales tax reimbursement or use tax to the board, shall be liable for a penalty of 40 percent of the amount not timely remitted.

(2) (A) This subdivision shall not apply to any person whose liability for the unremitted sales tax reimbursement or use tax described in paragraph (1) averages one thousand dollars ($1,000) or less per month or does not exceed 5 percent of the total amount of tax liability for which the tax reimbursement was collected for the period in which tax was due, whichever is greater.

(B) If a person's failure to make a timely remittance of sales tax reimbursement or use tax is due to a reasonable cause or circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the penalty imposed by this subdivision.

(b) For purposes of this section:

(1) "Reasonable cause or circumstances beyond the person's control" includes, but is not limited to, any of the following:

(A) The occurrence of a death or serious illness of the person or the person's next of kin that caused the person's failure to make a timely remittance.

(B) The occurrence of an emergency, as defined in Section 8558 of the Government Code that caused the person's failure to make a timely remittance.

(C) A natural disaster or other catastrophe directly affecting the business operations of the person that caused the person's failure to make a timely remittance.

(D) The board failed to send returns or other information to the correct address of record, that caused the person's failure to make a timely remittance.

(E) The person's failure to make a timely remittance occurred only once over a three-year period, or once during the period in which the person was engaged in business, whichever time period is shorter.

(F) The person voluntarily corrected errors in remitting sales tax reimbursement or use tax collected that were made in previous reporting periods and remitted payment of the liability owed as a result of those errors prior to being contacted by the board regarding possible errors or discrepancies.

(2) "Sales tax reimbursement" shall also include any sales tax that is advertised, held out, or stated to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer.

(c) This section shall apply to any determination made by the board pursuant to Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 4 (commencing with Section 6536).

CHAPTER 253

An act to amend Sections 7303 and 7331 of, and to add Sections 7305 and 7320.5 to, the Business and Professions Code, relating to barbering and cosmetology.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 7303 of the Business and Professions Code is amended to read:

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members and four members shall represent the professions. The Governor shall appoint three of the public members and the four professions members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The board shall appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 7305 is added to the Business and Professions Code, to read:

7305. The board shall elect officers annually from among its members, each of whom shall hold office for a term of one year. An officer shall not serve in a particular officer position for more than two terms.

SEC. 3. Section 7320.5 is added to the Business and Professions Code, to read:

7320.5. Any licensee who uses a laser in the treatment of any human being is guilty of a misdemeanor.

SEC. 4. Section 7331 of the Business and Professions Code is amended to read:

7331. The board shall grant a license to practice to an applicant if the applicant submits all of the following to the board:

(a) A completed application form and all fees required by the board.

(b) Proof of a current license issued by another state to practice that meets all of the following requirements:

(1) It is not revoked, suspended, or otherwise restricted.

(2) It is in good standing.

(3) It has been active for three of the last five years, during which time the applicant has not been subject to disciplinary action or a criminal conviction.

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 254

An act to amend Sections 1646.5, 1812.622, 3061.5, 3343.5, and 3440.3 of, and to add Section 1624.5 to, the Civil Code, to amend Sections 1101, 1103, 1201, 2103, 2104, 2202, 2310, 2323, 2401, 2503, 2505, 2506, 2509, 2605, 2705, 3103, 4104, 4210, 5103, 8102, 8103, 9102, 9203, 9207, 9208, 9301, 9310, 9312, 9313, 9314, 9317, 9338, 9601, 10103, 10501, 10514, 10518, 10519, 10526, 10527, 10528, 11105, 11106, and 11204 of, to amend and renumber Sections 1107, 1205, 1207, 1208, and 1209 of, to amend, renumber, and add Sections 1106, 1108, 1202, 1203, and 1204 of, to add Chapter 3 (commencing with Section 1301) to Division 1 of, to repeal Sections 1105, 1210, 2208, 10207, and 13104 of, to repeal and add Sections 1102 and 1206 of, and to repeal and add Division 7 (commencing with Section 7101) of, the Commercial Code, to amend Section 55702 of the Food and Agricultural Code, to amend Section 7152 of the Government Code, and to amend Section 574 of the Penal Code, relating to commercial transactions.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 1624.5 is added to the Civil Code, to read:

1624.5. (a) Except in the cases described in subdivision (b), a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars ($5,000) in amount or value of remedy unless there is some record, as defined in subdivision (m) of Section 1633.2, but solely to the extent permitted by applicable law, that indicates that a contract for sale has been made between the

parties at a defined or stated price, reasonably identifies the subject matter, and is signed, including by way of electronic signature, as defined in subdivision (h) of Section 1633.2, but solely to the extent permitted by applicable law, by the party against whom enforcement is sought or by his or her authorized agent.

(b) Subdivision (a) does not apply to contracts governed by the Commercial Code, including contracts for the sale of goods (Section 2201 of the Commercial Code), contracts for the sale of securities (Section 8113 of the Commercial Code), and security agreements (Sections 9201 and 9203 of the Commercial Code).

(c) Subdivision (a) does not apply to a qualified financial contract as that term is defined in paragraph (2) of subdivision (b) of Section 1624 if either of the following exists:

(1) There is, as provided in paragraph (3) of subdivision (b) of Section 1624, sufficient evidence to indicate that a contract has been made.

(2) The parties thereto, by means of a prior or subsequent written contract, have agreed to be bound by the terms of the qualified financial contract from the time they reach agreement (by telephone, by exchange of electronic messages, or otherwise) on those terms.

SEC. 1.5. Section 1646.5 of the Civil Code is amended to read:

1646.5. Notwithstanding Section 1646, the parties to any contract, agreement, or undertaking, contingent or otherwise, relating to a transaction involving in the aggregate not less than two hundred fifty thousand dollars ($250,000), including a transaction otherwise covered by subdivision (a) of Section 1301 of the Commercial Code, may agree that the law of this state shall govern their rights and duties in whole or in part, whether or not the contract, agreement, or undertaking or transaction bears a reasonable relation to this state. This section does not apply to any contract, agreement, or undertaking (a) for labor or personal services, (b) relating to any transaction primarily for personal, family, or household purposes, or (c) to the extent provided to the contrary in subdivision (c) of Section 1301 of the Commercial Code.

This section applies to contracts, agreements, and undertakings entered into before, on, or after its effective date; it shall be fully retroactive. Contracts, agreements, and undertakings selecting California law entered into before the effective date of this section shall be valid, enforceable, and effective as if this section had been in effect on the date they were entered into; and actions and proceedings commencing in a court of this state before the effective date of this section may be maintained as if this section were in effect on the date they were commenced.

SEC. 2. Section 1812.622 of the Civil Code is amended to read:

1812.622. As used in this title:

(a) "Advertisement" means a commercial message in any medium that directly or indirectly solicits or promotes one or more specific rental-purchase transactions, excluding instore merchandising aids. This definition does not limit or alter the application of other laws, including Chapter 5 (commencing with Section 17200) of Part 2 and Chapter 1 (commencing with Section 17500) of Part 3, of Division 7 of the Business and Professions Code, to rental-purchase transactions.

(b) "Consumer" means a natural person or persons who rent or lease personal property from a lessor pursuant to a rental-purchase agreement or to whom a lessor offers personal property for use pursuant to a rental-purchase agreement.

(c) "Lessor" means any person or entity that provides or offers to provide personal property for use by consumers pursuant to a rental-purchase agreement.

(d) "Rental-purchase agreement," except as otherwise provided in this subdivision, means an agreement between a lessor and a consumer pursuant to which the lessor rents or leases, for valuable consideration, personal property for use by a consumer for personal, family, or household purposes for an initial term not exceeding four months that may be renewed or otherwise extended, if under the terms of the agreement the consumer acquires an option or other legally enforceable right to become owner of the property. A rental-purchase agreement is a lease subject to Title 1.5 (commencing with Section 1750) and Title 1.7 (commencing with Section 1790).

"Rental-purchase agreement" shall not be construed to be, nor be governed by, and shall not apply to, any of the following:

(1) A retail installment sale, as defined in Section 1802.5.

(2) A retail installment contract, as defined in Section 1802.6.

(3) A retail installment account, as defined in Section 1802.7.

(4) A lease or agreement that constitutes a security interest, as defined in paragraph (35) of subdivision (b) of Section 1201 of the Commercial Code.

(5) A consumer credit contract, as defined in Section 1799.90.

(e) "Cash price" means the price at which retail sellers are selling and retail buyers are buying the same or similar property for cash in the same trade area in which the lessor's place of business is located. Cash price may be evidenced as provided in subdivision (b) of Section 1812.644.

(f) "Cost of rental" means the difference between the total of all periodic payments necessary to acquire ownership under the rental-purchase agreement and the cash price of the rental property that is subject to the rental-purchase agreement.

(g) "Fee" means any payment, charge, fee, cost, or expense, however denominated, other than a rental payment.

SEC. 3. Section 3061.5 of the Civil Code is amended to read:

3061.5. (a) Except as provided in subdivision (d), any person who as an employee shall, by his or her own labor, do or perform any work harvesting or transporting harvested crops or farm products as defined in Section 55403 of the Food and Agricultural Code which are owned and grown or produced by a limited partnership as defined in Section 15501 of the Corporations Code, has a lien upon any and all of the severed crops or severed farm products or proceeds from their sale for the value of the labor done up to a maximum of earnings for two weeks. The liens attach whether the work was done at the instance of the owner who is the grower or producer of severed crops or severed farm products or of any other person acting by or under the owner's authority, directly or indirectly, as contractor or otherwise; and every contractor, subcontractor, or other person having charge of the harvesting or transporting of the severed crops or severed farm products shall be held to be the agent of the owner for the purposes of this section.

(b) The liens provided for in this section attach from the date of the commencement of the work or labor, and are preferred liens, prior in dignity to all other liens, claims, or encumbrances. Except as provided in subdivisions (a) and (c) they shall not be limited as to amount by any contract price agreed upon between the owner who is the grower or producer of the severed crops or severed farm products and any contractor, but the several liens shall not in any case exceed in amount the reasonable value of the labor done, nor the price agreed upon for the labor between the claimant and his or her employer. In no event, where the claimant was employed by a contractor, or subcontractor, shall the lien extend to any labor not contemplated by, covered by, or reasonably necessary to the execution of, the original contract between the contractor and the owner who is the grower or producer of severed crops or severed farm products and of which contract, or modification thereof, the claimant had actual notice before the performance of the labor.

(c) The maximum liability of severed crops, severed farm products or the proceeds from their sale subject to liens under this section is limited to the lesser of actual proved claims or 25 percent of the fair market value of the severed crops, severed farm products, or 25 percent of the proceeds after their sale.

(d) No person has a lien if the owner who is the grower or producer of the severed crops, severed farm products, or their proceeds, who otherwise would be subject to a lien pursuant to subdivision (a), either gives directly, or requires a person or entity hired or used to furnish labor in connection with harvesting or transporting the severed crops, to give to the Labor Commissioner prior to the harvest and for 45 days after its completion, a bond executed by an admitted surety insurer in an amount

and form acceptable to the Labor Commissioner, which is conditioned upon the payment of all wages found to be due and unpaid in connection with such operations under any provision of this code.

(e) A buyer in the ordinary course of business, as defined in paragraph (9) of subdivision (b) of Section 1201 of the Commercial Code, shall take free of any security interest created by this section, notwithstanding the fact that the lien is perfected and the buyer knows of its existence.

SEC. 4. Section 3343.5 of the Civil Code is amended to read:

3343.5. (a) Any one or more of the following who suffers any damage proximately resulting from one or more acts of unlawful motor vehicle subleasing, as described in Chapter 12.7 (commencing with Section 570) of Title 13 of Part 1 of the Penal Code, may bring an action against the person who has engaged in those acts:

(1) A seller or other secured party under a conditional sale contract or a security agreement.

(2) A lender under a direct loan agreement.

(3) A lessor under a lease contract.

(4) A buyer under a conditional sale contract.

(5) A purchaser under a direct loan agreement, an agreement which provides for a security interest, or an agreement which is equivalent to these types of agreements.

(6) A lessee under a lease contract.

(7) An actual or purported transferee or assignee of any right or interest of a buyer, a purchaser, or a lessee.

(b) The court in an action under subdivision (a) may award actual damages; equitable relief, including, but not limited to, an injunction and restitution of money and property; punitive damages; reasonable attorney's fees and costs; and any other relief which the court deems proper.

(c) As used in this section, the following terms have the following meanings:

(1) "Buyer" has the meaning set forth in subdivision (c) of Section 2981.

(2) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981. Notwithstanding subdivision (k) of Section 2981, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(3) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased.

(4) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7.

Notwithstanding subdivision (d) of Section 2985.7, "lease contract" includes a lease for business or commercial purposes.

(5) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(6) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(7) "Purchaser" has the meaning set forth in paragraph (30) of subdivision (b) of Section 1201 of the Commercial Code.

(8) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (73) and (72) of subdivision (a) of Section 9102 of the Commercial Code. "Security interest" has the meaning set forth in paragraph (35) of subdivision (b) of Section 1201 of the Commercial Code.

(9) "Seller" has the meaning set forth in subdivision (b) of Section 2981, and includes the present holder of the conditional sale contract.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

SEC. 5. Section 3440.3 of the Civil Code is amended to read:

3440.3. A transfer of personal property, as to which the conditions set forth in subdivision (h) of Section 3440.1, Section 3440.2, or subdivision (b) of Section 3440.5 are satisfied, shall, nevertheless, be void under Section 3440 as against a person who has purchased the personal property from the transferor and who is a "buyer in the ordinary course of business," as defined in paragraph (9) of subdivision (b) of Section 1201 of the Commercial Code.

SEC. 6. Section 1101 of the Commercial Code is amended to read:

1101. This code may be cited as the Uniform Commercial Code.

SEC. 7. Section 1102 of the Commercial Code is repealed.

SEC. 8. Section 1102 is added to the Commercial Code, to read:

1102. This division applies to a transaction to the extent that it is governed by another division of this code.

SEC. 9. Section 1103 of the Commercial Code is amended to read:

1103. (a) This code shall be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) to simplify, clarify, and modernize the law governing commercial transactions;

(2) to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties; and

(3) to make uniform the law among the various jurisdictions.

(b) Unless displaced by the particular provisions of this code, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud,

misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or invalidating cause supplement its provisions.

SEC. 10. Section 1105 of the Commercial Code is repealed.

SEC. 11. Section 1106 of the Commercial Code is amended and renumbered to read:

1305. (a) The remedies provided by this code shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special damages nor penal damages may be had except as specifically provided in this code or by other rule of law.

(b) Any right or obligation declared by this code is enforceable by action unless the provision declaring it specifies a different and limited effect.

SEC. 12. Section 1106 is added to the Commercial Code, to read:

1106. In this code, unless the statutory context otherwise requires:

(1) words in the singular number include the plural, and those in the plural include the singular; and

(2) words of any gender also refer to any other gender.

SEC. 13. Section 1107 of the Commercial Code is amended and renumbered to read:

1306. A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.

SEC. 14. Section 1108 of the Commercial Code is amended and renumbered to read:

1105. If any provision or clause of this code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are severable.

SEC. 15. Section 1108 is added to the Commercial Code, to read:

1108. This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., except that nothing in this chapter modifies, limits, or supersedes Section 7001(c) of that act or authorizes electronic delivery of any of the notices described in Section 7003(b) of that act.

SEC. 16. Section 1201 of the Commercial Code is amended to read:

1201. (a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other divisions of this code that apply to particular divisions or chapters thereof, have the meanings stated.

(b) Subject to definitions contained in other divisions of this code that apply to particular divisions or chapters thereof:

(1) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined.

(2) "Aggrieved party" means a party entitled to pursue a remedy.

(3) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in Section 1303.

(4) "Bank" means a person engaged in the business of banking, and includes a savings bank, savings and loan association, credit union, and trust company.

(5) "Bearer" means a person in possession of a negotiable instrument, document of title, or certificated security that is payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Division 2 (commencing with Section 2101) may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous," with reference to a term, means so written, displayed, or presented that a reasonable person against whom it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. Conspicuous terms include the following:

(A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) language in the body of a record or display 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 surrounding text of the same size by symbols or other marks that call attention to the language.

(11) [Reserved]

(12) "Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by this code and as supplemented by any other applicable laws.

(13) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(14) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) "Delivery," with respect to an instrument, document of title, or chattel paper means voluntary transfer of possession.

(16) "Document of title" includes a bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(17) "Fault" means a default, breach, or wrongful act or omission.

(18) "Fungible goods" means:

(A) Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) Goods that by agreement are treated as equivalent.

(19) "Genuine" means free of forgery or counterfeiting.

(20) "Good faith," except as otherwise provided in Division 5 (commencing with Section 5101), means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(21) "Holder," means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or, to an identified person that is the person in possession; or

(B) the person in possession of a document of title if the goods are deliverable either to bearer or to the order of the person in possession.

(22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) "Insolvent" means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law.

(24) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.

(25) "Organization" means a person other than an individual.

(26) "Party," as distinguished from "third party," means a person that has engaged in a transaction or made an agreement subject to this code.

(27) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(28) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(30) "Purchaser" means a person that takes by purchase.

(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.

(34) "Right" includes remedy.

(35) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a

transaction that is subject to Division 9 (commencing with Section 9101). "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2401, but a buyer may also acquire a "security interest" by complying with Division 9 (commencing with Section 9101). Except as otherwise provided in Section 2505, the right of a seller or lessor of goods under Division 2 (commencing with Section 2101) or Division 10 (commencing with Section 10101) to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Division 9 (commencing with Section 9101). The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 2401 is limited in effect to a reservation of a "security interest."

Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to Section 1203.

(36) "Send," in connection with a writing, record, or notice means:

(A) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or, if there is none, to any address reasonable under the circumstances; or

(B) in any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

(37) "Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.

(38) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) "Surety" includes a guarantor or other secondary obligor.

(40) "Term" means a portion of an agreement that relates to a particular matter.

(41) "Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(43) "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.

SEC. 17. Section 1202 of the Commercial Code is amended and renumbered to read:

1307. (1) A bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party is admissible as evidence of the facts stated in the document by

the third party in any action arising out of the contract that authorized or required the document.

(2) In any action arising out of the contract that authorized or required the document referred to in subdivision (1):

(a) A document in due form purporting to be the document referred to in subdivision (1) is presumed to be authentic and genuine. The presumption is a presumption affecting the burden of producing evidence.

(b) If the document is found to be authentic and genuine, the facts stated in the document by the third party are presumed to be true. The presumption is a presumption affecting the burden of proof.

SEC. 18. Section 1202 is added to the Commercial Code, to read:

1202. (a) Subject to subdivision (f), a person has "notice" of a fact if the person:

(1) has actual knowledge of it;

(2) has received a notice or notification of it; or

(3) from all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(b) "Knowledge" means actual knowledge. "Knows" has a corresponding meaning.

(c) "Discover," "learn," or words of similar import refer to knowledge rather than to reason to know.

(d) A person "notifies" or "gives" a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.

(e) Subject to subdivision (f), a person "receives" a notice or notification when:

(1) it comes to that person's attention; or

(2) it is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(f) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to

know of the transaction and that the transaction would be materially affected by the information.

SEC. 19. Section 1203 of the Commercial Code is amended and renumbered to read:

1304. Every contract or duty within this code imposes an obligation of good faith in its performance and enforcement.

SEC. 20. Section 1203 is added to the Commercial Code, to read:

1203. (a) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(1) the original term of the lease is equal to or greater than the remaining economic life of the goods;

(2) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(3) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(4) the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(c) A transaction in the form of a lease does not create a security interest merely because:

(1) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(2) the lessee assumes risk of loss of the goods;

(3) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;

(4) the lessee has an option to renew the lease or to become the owner of the goods;

(5) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(6) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(7) in the case of a motor vehicle, as defined in Section 415 of the Vehicle Code, or a trailer, as defined in Section 630 of that code, that is

not to be used primarily for personal, family, or household purposes, that the amount of rental payments may be increased or decreased by reference to the amount realized by the lessor upon sale or disposition of the vehicle or trailer. Nothing in this paragraph affects the application or administration of the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code).

(d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(1) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(2) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(e) The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

SEC. 21. Section 1204 of the Commercial Code is amended and renumbered to read:

1205. (a) Whether a time for taking an action required by this code is reasonable depends on the nature, purpose, and circumstances of the action.

(b) An action is taken "seasonably" if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.

SEC. 22. Section 1204 is added to the Commercial Code, to read:

1204. Except as otherwise provided in Divisions 3, 4, 5, and 6, a person gives value for rights if the person acquires them:

(1) in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection;

(2) as security for, or in total or partial satisfaction of, a preexisting claim;

(3) by accepting delivery under a preexisting contract for purchase; or

(4) in return for any consideration sufficient to support a simple contract.

SEC. 23. Section 1205 of the Commercial Code is amended and renumbered to read:

1303. (a) A "course of performance" is a sequence of conduct between the parties to a particular transaction that exists if:

(1) the agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(2) the other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(b) A "course of dealing" is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(c) A "usage of trade" is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(d) A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(e) Except as otherwise provided in subdivision (f), the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade must be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(1) express terms prevail over course of performance, course of dealing, and usage of trade;

(2) course of performance prevails over course of dealing and usage of trade;

(3) course of dealing prevails over usage of trade.

(f) Subject to Section 2209, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

(g) Evidence of a relevant usage of trade offered by one party is not admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.

SEC. 24. Section 1206 of the Commercial Code is repealed.

SEC. 25. Section 1206 is added to the Commercial Code, to read:

1206. Whenever this code creates a "presumption" with respect to a fact, or provides that a fact is "presumed," the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.

SEC. 26. Section 1207 of the Commercial Code is amended and renumbered to read:

1308. (a) A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice," "under protest" or the like are sufficient.

(b) Subdivision (a) does not apply to an accord and satisfaction.

SEC. 27. Section 1208 of the Commercial Code is amended and renumbered to read:

1309. A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or when the party "deems itself insecure," or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised.

SEC. 28. Section 1209 of the Commercial Code is amended and renumbered to read:

1310. An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Subordination does not create a security interest as against either the common debtor or a subordinated creditor.

SEC. 29. Section 1210 of the Commercial Code is repealed.

SEC. 30. Chapter 3 (commencing with Section 1301) is added to Division 1 of the Commercial Code, to read:

Chapter 3. Territorial Applicability and General Rules

1301. (a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation, the parties may agree that the law either of this state or of the other state or nation shall govern their rights and duties.

(b) In the absence of an agreement effective under subdivision (a), and except as provided in subdivision (c), this code applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(1) Section 2402.
(2) Section 4102.
(3) Section 5116.
(4) Section 6103.
(5) Section 8110.
(6) Sections 9301 to 9307, inclusive.
(7) Sections 10105 and 10106.
(8) Section 11507.

1302. (a) Except as otherwise provided in subdivision (b) or elsewhere in this code, the effect of provisions of this code may be varied by agreement.

(b) The obligations of good faith, diligence, reasonableness, and care prescribed by this code may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever this code requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

(c) The presence of certain provisions of this code of the phrase "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

SEC. 31. Section 2103 of the Commercial Code is amended to read:

2103. (1) In this division unless the context otherwise requires:

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) [Reserved]

(c) "Receipt of goods" means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this division or to specified chapters thereof, and the sections in which they appear are:

"Acceptance." Section 2606.
"Banker's credit." Section 2325.
"Between merchants." Section 2104.
"Cancellation." Section 2106(4).
"Commercial unit." Section 2105.
"Confirmed credit." Section 2325.
"Conforming to contract." Section 2106.
"Contract for sale." Section 2106.
"Cover." Section 2712.
"Entrusting." Section 2403.

"Financing agency." Section 2104.
"Future goods." Section 2105.
"Goods." Section 2105.
"Identification." Section 2501.
"Installment contract." Section 2612.
"Letter of Credit." Section 2325.
"Lot." Section 2105.
"Merchant." Section 2104.
"Overseas." Section 2323.
"Person in position of seller." Section 2707.
"Present sale." Section 2106.
"Sale." Section 2106.
"Sale on approval." Section 2326.
"Sale or return." Section 2326.
"Termination." Section 2106.

(3) The following definitions in other divisions apply to this division:
"Check." Section 3104.
"Consignee." Section 7102.
"Consignor." Section 7102.
"Consumer goods." Section 9102.
"Control." Section 7106.
"Dishonor." Section 3502.
"Draft." Section 3104.

(4) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 32. Section 2104 of the Commercial Code is amended to read:

2104. (1) "Merchant" means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.

(2) "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 2707).

(3) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.

SEC. 33. Section 2202 of the Commercial Code is amended to read:

2202. Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

(a) By course of dealing, course of performance, or usage of trade (Section 1303); and

(b) By evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

SEC. 34. Section 2208 of the Commercial Code is repealed.

SEC. 35. Section 2310 of the Commercial Code is amended to read:

2310. Unless otherwise agreed:

(a) Payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) If the seller is authorized to send the goods he may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (Section 2513); and

(c) If delivery is authorized and made by way of documents of title otherwise than by subdivision (b) then payment is due regardless of where the goods are to be received (i) at the time and place at which the buyer is to receive delivery of the tangible documents or (ii) at the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or if none, the seller's residence; and

(d) Where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but postdating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.

SEC. 36. Section 2323 of the Commercial Code is amended to read:

2323. (1) Where the contract contemplates overseas shipment and contains a term C.I.F. or C. & F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C. & F., received for shipment.

(2) Where in a case within subdivision (1) a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

(a) Due tender of a single part is acceptable within the provisions of this division on cure of improper delivery (subdivision (1) of Section 2508); and

(b) Even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deepwater commerce.

SEC. 37. Section 2401 of the Commercial Code is amended to read:

2401. Each provision of this division with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this division and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (Section 2501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this code. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the division on secured transactions (Division 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) If the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) If the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) If the seller is to deliver a tangible document of title, title passes at the time when and the place where he delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b) If the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of law and is not a "sale."

SEC. 38. Section 2503 of the Commercial Code is amended to read:

2503. (1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him to take delivery. The manner, time and place for tender are determined by the agreement and this division, and in particular

(a) Tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) Unless otherwise agreed, the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(3) Where the seller is required to deliver at a particular destination tender requires that he comply with subdivision (1) and also in any appropriate case tender documents as described in subdivisions (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved

(a) Tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) Tender to the buyer of a nonnegotiable document of title or of a record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in Division 9 (commencing with Section 9101), receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present

the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents

(a) He must tender all such documents in correct form, except as provided in this division with respect to bills of lading in a set (subdivision (2) of Section 2323); and

(b) Tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

SEC. 39. Section 2505 of the Commercial Code is amended to read:

2505. (1) Where the seller has identified goods to the contract by or before shipment:

(a) His procurement of a negotiable bill of lading to his own order or otherwise reserves in him a security interest in the goods. His procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

(b) A nonnegotiable bill of lading to himself or his nominee reserves possession of the goods as security but except in a case of conditional delivery (subdivision (2) of Section 2507) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

SEC. 40. Section 2506 of the Commercial Code is amended to read:

2506. (1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular.

SEC. 41. Section 2509 of the Commercial Code is amended to read:

2509. (1) Where the contract requires or authorizes the seller to ship the goods by carrier

(a) If it does not require him to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (Section 2505); but

(b) If it does require him to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer

(a) On his receipt of possession or control of a negotiable document of title covering the goods; or

(b) On acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) After his receipt of possession or control of a nonnegotiable document of title or other direction to deliver in a record, as provided in subdivision (4)(b) of Section 2503.

(3) In any case not within subdivision (1) or (2), the risk of loss passes to the buyer on his receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this division on sale on approval (Section 2327) and on effect of breach on risk of loss (Section 2510).

SEC. 42. Section 2605 of the Commercial Code is amended to read:

2605. (1) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him from relying on the unstated defect to justify rejection or to establish breach

(a) Where the seller could have cured it if stated seasonably; or

(b) Between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent in the documents.

SEC. 43. Section 2705 of the Commercial Code is amended to read:

2705. (1) The seller may stop delivery of goods in the possession of a carrier or other bailee when he discovers the buyer to be insolvent (Section 2702) and may stop delivery of carload, truckload, planeload or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

(2) As against such buyer the seller may stop delivery until

(a) Receipt of the goods by the buyer; or

(b) Acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or

(c) Such acknowledgment to the buyer by a carrier by reshipment or as a warehouse; or

(d) Negotiation to the buyer of any negotiable document of title covering the goods.

(3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

(d) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

SEC. 44. Section 3103 of the Commercial Code is amended to read:

3103. (a) In this division:

(1) "Acceptor" means a drawee who has accepted a draft.

(2) "Drawee" means a person ordered in a draft to make payment.

(3) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(4) [Reserved]

(5) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(6) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(7) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this division or Division 4 (commencing with Section 4101).

(8) "Party" means a party to an instrument.

(9) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(10) "Prove" with respect to a fact means to meet the burden of establishing the fact (paragraph (8) of subdivision (b) of Section 1201).

(11) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(b) Other definitions applying to this division and the sections in which they appear are:

"Acceptance"	Section 3409
"Accommodated party"	Section 3419
"Accommodation party"	Section 3419
"Alteration"	Section 3407
"Anomalous endorsement"	Section 3205
"Blank endorsement"	Section 3205
"Cashier's check"	Section 3104
"Certificate of deposit"	Section 3104
"Certified check"	Section 3409
"Check"	Section 3104
"Consideration"	Section 3303
"Demand Draft"	Section 3104
"Draft"	Section 3104
"Holder in due course"	Section 3302
"Incomplete instrument"	Section 3115
"Indorsement"	Section 3204
"Indorser"	Section 3204
"Instrument"	Section 3104
"Issue"	Section 3105
"Issuer"	Section 3105
"Negotiable instrument"	Section 3104
"Negotiation"	Section 3201
"Note"	Section 3104
"Payable at a definite time"	Section 3108
"Payable on demand"	Section 3108
"Payable to bearer"	Section 3109
"Payable to order"	Section 3109
"Payment"	Section 3602
"Person entitled to enforce"	Section 3301
"Presentment"	Section 3501
"Reacquisition"	Section 3207

"Special indorsement"	Section 3205
"Teller's check"	Section 3104
"Transfer of instrument"	Section 3203
"Traveler's check"	Section 3104
"Value"	Section 3303

(c) The following definitions in other divisions apply to this division:

"Bank"	Section 4105
"Banking day"	Section 4104
"Clearinghouse"	Section 4104
"Collecting bank"	Section 4105
"Depositary bank"	Section 4105
"Documentary draft"	Section 4104
"Intermediary bank"	Section 4105
"Item"	Section 4104
"Payor bank"	Section 4105
"Suspends payments"	Section 4104

(d) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 45. Section 4104 of the Commercial Code is amended to read:

4104. (a) In this division unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit.

(2) "Afternoon" means the period of a day between noon and midnight.

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

(4) "Clearinghouse" means an association of banks or other payors regularly clearing items.

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (Section 8102) or instructions for uncertificated securities (Section 8102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(7) "Draft" means a draft as defined in Section 3104 or an item, other than an instrument, that is an order.

(8) "Drawee" means a person ordered in a draft to make payment.

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Division 11 (commencing with Section 11101) or a credit or debit card slip.

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

(11) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(12) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this division and the sections in which they appear are:

"Agreement for electronic presentment"	Section 4110
"Bank"	Section 4105
"Collecting bank"	Section 4105
"Depositary bank"	Section 4105
"Intermediary bank"	Section 4105
"Payor bank"	Section 4105
"Presenting bank"	Section 4105
"Presentment notice"	Section 4110

(c) The following definitions in other divisions apply to this division:

"Acceptance"	Section 3409
"Alteration"	Section 3407
"Cashier's check"	Section 3104
"Certificate of deposit"	Section 3104
"Certified check"	Section 3409
"Check"	Section 3104
"Control"	Section 7106
"Holder in due course"	Section 3302
"Instrument"	Section 3104
"Notice of dishonor"	Section 3503
"Order"	Section 3103
"Ordinary care"	Section 3103
"Person entitled to enforce"	Section 3301

"Presentment"	Section 3501
"Promise"	Section 3103
"Prove"	Section 3103
"Teller's check"	Section 3104
"Unauthorized signature"	Section 3403

(d) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 46. Section 4210 of the Commercial Code is amended to read:

4210. (a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) In case of an item deposited in an account to the extent to which credit given for the item has been withdrawn or applied.

(2) In case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of chargeback.

(3) If it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Division 9 (commencing with Section 9101), but all of the following are applicable:

(1) No security agreement is necessary to make the security interest enforceable (subparagraph (A) of paragraph (3) of subdivision (b) of Section 9203).

(2) No filing is required to perfect the security interest.

(3) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

SEC. 47. Section 5103 of the Commercial Code is amended to read:

5103. (a) This division applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(b) The statement of a rule in this division does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this division.

(c) With the exception of this subdivision, subdivisions (a) and (d), paragraphs 9 and 10 of subdivision (a) of Section 5102, subdivision (d) of Section 5106, and subdivision (d) of Section 5114, and except to the extent prohibited in Section 1302 and subdivision (d) of Section 5117, the effect of this division may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this division.

(d) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

SEC. 48. Division 7 (commencing with Section 7101) of the Commercial Code is repealed.

SEC. 49. Division 7 (commencing with Section 7101) is added to the Commercial Code, to read:

DIVISION 7. DOCUMENTS OF TITLE

Chapter 1. General

7101. This division may be cited as the Uniform Commercial Code—Documents of Title.

7102. (a) In this division, unless the context otherwise requires:

(1) "Bailee" means a person that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(2) "Carrier" means a person that issues a bill of lading.

(3) "Consignee" means a person named in a bill of lading to which or to whose order the bill promises delivery.

(4) "Consignor" means a person named in a bill of lading as the person from which the goods have been received for shipment.

(5) "Delivery order" means a record that contains an order to deliver goods directed to a warehouse, carrier, or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(6) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(7) "Goods" means all things that are treated as movable for the purposes of a contract for storage or transportation.

(8) "Issuer" means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer's instructions.

(9) "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic sound, symbol, or process.

(12) "Shipper" means a person that enters into a contract of transportation with a carrier.

(13) "Warehouse" means a person engaged in the business of storing goods for hire.

(b) Definitions in other divisions applying to this division and the sections in which they appear are:

(1) "Contract for sale," Section 2106.

(2) "Lessee in the ordinary course of business," Section 10103.

(3) "Receipt of goods," Section 2103.

(c) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

7103. (a) This division is subject to any treaty or statute of the United States or regulatory statute of this state to the extent the treaty, statute, or regulatory statute is applicable.

(b) This division does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's business in respects not specifically treated in this division. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(c) This division modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that

act (15 U.S.C. Sec. 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

(d) To the extent there is a conflict between the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code) and this division, this division governs.

7104. (a) Except as otherwise provided in subdivision (c), a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person.

(b) A document of title other than one described in subdivision (a) is nonnegotiable. A bill of lading that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against an order in a record signed by the same or another named person.

(c) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

7105. (a) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(1) the person entitled under the electronic document surrenders control of the document to the issuer; and

(2) the tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(b) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subdivision (a):

(1) the electronic document ceases to have any effect or validity; and

(2) the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(c) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(1) the person entitled under the tangible document surrenders possession of the document to the issuer; and

(2) the electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(d) Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subdivision (c):

(1) the tangible document ceases to have any effect or validity; and

(2) the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

7106. (a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subdivision (a), and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

Chapter 2. Warehouse Receipts: Special Provisions

7201. (a) A warehouse receipt may be issued by any warehouse.

(b) If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if issued by a person that is the owner of the goods and is not a warehouse.

7202. (a) A warehouse receipt need not be in any particular form.

(b) Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by its omission:

(1) a statement of the location of the warehouse facility where the goods are stored;

(2) the date of issue of the receipt;

(3) the unique identification code of the receipt;

(4) a statement whether the goods received will be delivered to the bearer, to a named person, or to a named person or its order;

(5) the rate of storage and handling charges, unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(6) a description of the goods or the packages containing them;

(7) the signature of the warehouse or its agent;

(8) if the receipt is issued for goods that the warehouse owns, either solely, jointly, or in common with others, a statement of the fact of that ownership; and

(9) a statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest, unless the precise amount of advances made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse or to its agent that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(c) A warehouse may insert in its receipt any terms that are not contrary to the provisions of this code and do not impair its obligation of delivery under Section 7403 or its duty of care under Section 7204. Any contrary provision is ineffective.

7203. A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) the document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as a case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown," "said to contain," or words of similar import, if the indication is true; or

(2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

7204. (a) A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise care with regard to the goods that a reasonably careful person would exercise under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on an increased valuation of the goods.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the bailment may be included in the warehouse receipt or storage agreement.

(d) This section does not modify or repeal Section 1630 of the Civil Code nor any of the provisions of the Public Utilities Code or the Food and Agricultural Code or any lawful regulations issued thereunder.

7205. A buyer in ordinary course of business of fungible goods sold and delivered by a warehouse that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and has been duly negotiated.

7206. (a) A warehouse, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title or, if a period is not fixed, within a stated period not less than 30 days after the warehouse gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them pursuant to Section 7210.

(b) If a warehouse in good faith believes that goods are about to deteriorate or decline in value to less than the amount of its lien within the time provided in subdivision (a) and Section 7210, the warehouse may specify in the notice given under subdivision (a) any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(c) If, as a result of a quality or condition of the goods of which the warehouse did not have notice at the time of deposit, the goods are a hazard to other property, the warehouse facilities, or other persons, the warehouse may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.

(d) A warehouse shall deliver the goods to any person entitled to them under this division upon due demand made at any time before sale or other disposition under this section.

(e) A warehouse may satisfy its lien from the proceeds of any sale or disposition under this section but shall hold the balance for delivery on the demand of any person to which the warehouse would have been bound to deliver the goods.

7207. (a) Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, different lots of fungible goods may be commingled.

(b) If different lots of fungible goods are commingled, the goods are owned in common by the persons entitled thereto and the warehouse is severally liable to each owner for that owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts the warehouse has issued against it, the persons entitled include all holders to which overissued receipts have been duly negotiated.

7208. If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good-faith purchaser for value and without notice of the lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

7209. (a) A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a lien against the goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for those charges and expenses, whether or not the other goods have been delivered by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified in the warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(b) A warehouse may also reserve a security interest against the bailor for the maximum amount specified on the receipt for charges other than

those specified in subdivision (a), such as for money advanced and interest. The security interest is governed by Division 9 (commencing with Section 9101).

(c) A warehouse's lien for charges and expenses under subdivision (a) or a security interest under subdivision (b) is also effective against any person that so entrusted the bailor with possession of the goods that a pledge of them by the bailor to a good-faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under Section 7403; or

(C) power of disposition under Section 2403 or 9320 or subdivision (c) of Section 9321 or subdivision (b) of Section 10304 or subdivision (b) of Section 10305 or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or its nominee of any document.

(d) A warehouse's lien on household goods for charges and expenses in relation to the goods under subdivision (a) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subdivision, "household goods" means furniture, furnishings, or personal effects used by the depositor in a dwelling.

(e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

7210. (a) Except as otherwise provided in subdivision (b), a warehouse's lien may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. Notification may be made by mail, personal service, or verifiable electronic mail. The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary

to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) A warehouse may enforce its lien on goods, other than goods stored by a merchant in the course of its business, only if the following requirements are satisfied:

(1) All persons known to claim an interest in the goods must be notified.

(2) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(3) The sale must conform to the terms of the notification.

(4) The sale must be held at the nearest suitable place to where the goods are held or stored.

(5) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account the goods are being held, and the time and place of the sale. The sale must take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least 10 days before the sale in not fewer than six conspicuous places in the neighborhood of the proposed sale.

(c) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the warehouse subject to the terms of the receipt and this division.

(d) A warehouse may buy at any public sale held pursuant to this section.

(e) A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods free of any rights of persons against which the lien was valid, despite the warehouse's noncompliance with this section.

(f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the warehouse would have been bound to deliver the goods.

(g) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(h) If a lien is on goods stored by a merchant in the course of its business, the lien may be enforced in accordance with subdivision (a) or (b).

(i) A warehouse is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

Chapter 3. Bills of Lading: Special Provisions

7301. (a) A consignee of a nonnegotiable bill of lading which has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown," "said to contain," "shipper's weight, load, and count," or words of similar import, if that indication is true.

(b) If goods are loaded by the issuer of a bill of lading:

(1) the issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(2) words such as "shipper's weight, load, and count," or words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed in packages.

(c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case, "shipper's weight" or words of similar import are ineffective.

(d) The issuer of a bill of lading, by including in the bill the words "shipper's weight, load, and count," or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(e) A shipper guarantees to an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of indemnity does not limit the issuer's

responsibility or liability under the contract of carriage to any person other than the shipper.

7302. (a) The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier, is liable to any person entitled to recover on the bill or other document for any breach by the other person or the performing carrier of its obligation under the bill or other document. However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(b) If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the bill or other document and does not include liability for breach by any other person or by the issuer.

(c) The issuer of a through bill of lading or other document of title described in subdivision (a) is entitled to recover from the performing carrier, or other person in possession of the goods when the breach of the obligation under the bill or other document occurred:

(1) the amount it may be required to pay to any person entitled to recover on the bill or other document for the breach, as may be evidenced by any receipt, judgment, or transcript of judgment; and

(2) the amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the bill or other document for the breach.

7303. (a) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(1) the holder of a negotiable bill;

(2) the consignor on a nonnegotiable bill, even if the consignee has given contrary instructions;

(3) the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or

(4) the consignee on a nonnegotiable bill, if the consignee is entitled as against the consignor to dispose of the goods.

(b) Unless instructions described in subdivision (a) are included in a negotiable bill of lading, a person to which the bill is duly negotiated may hold the bailee according to the original terms.

7304. (a) Except as customary in international transportation, a tangible bill of lading may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subdivision.

(b) If a tangible bill of lading is lawfully issued in a set of parts, each of which contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

(c) If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to which the first due negotiation is made prevails as to both the document of title and the goods even if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrendering its part.

(d) A person that negotiates or transfers a single part of a tangible bill of lading issued in a set is liable to holders of that part as if it were the whole set.

(e) The bailee shall deliver in accordance with Chapter 4 (commencing with Section 7401) against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

7305. (a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(b) Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to Section 7105, may procure a substitute bill to be issued at any place designated in the request.

7306. An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

7307. (a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges

stated in the bill or the applicable tariffs or, if no charges are stated, a reasonable charge.

(b) A lien for charges and expenses under subdivision (a) on goods that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subdivision (a) is effective against the consignor and any person that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked authority.

(c) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

7308. (a) A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the carrier, subject to the terms of the bill of lading and this division.

(c) A carrier may buy at any public sale pursuant to this section.

(d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against which the lien was valid, despite the carrier's noncompliance with this section.

(e) A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the carrier would have been bound to deliver the goods.

(f) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(g) A carrier's lien may be enforced pursuant to either subdivision (a) or the procedure set forth in subdivision (b) of Section 7210.

(h) A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

7309. (a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care in relation to the goods which a reasonably careful person would exercise under similar circumstances. This subdivision does not affect any statute, regulation, or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(b) Damages may be limited by a term in the bill of lading or in a transportation agreement that the carrier's liability may not exceed a value stated in the bill or transportation agreement if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

Chapter 4. Warehouse Receipts and Bills of Lading: General Obligations

7401. The obligations imposed by this division on an issuer apply to a document of title even if:

(1) the document does not comply with the requirements of this division or of any other statute, rule, or regulation regarding its issuance, form, or content;

(2) the issuer violated laws regulating the conduct of its business;

(3) the goods covered by the document were owned by the bailee when the document was issued; or

(4) the person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

7402. A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to Section 7105. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document by a conspicuous notation.

7403. (a) A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subdivisions (b) and (c), unless and to the extent that the bailee establishes any of the following:

(1) delivery of the goods to a person whose receipt was rightful as against the claimant;

(2) damage to or delay, loss, or destruction of the goods for which the bailee is not liable;

(3) previous sale or other disposition of the goods in lawful enforcement of a lien or on a warehouse's lawful termination of storage;

(4) the exercise by a seller of its right to stop delivery pursuant to Section 2705 or by a lessor of its right to stop delivery pursuant to Section 10526;

(5) a diversion, reconsignment, or other disposition pursuant to Section 7303;

(6) release, satisfaction, or any other personal defense against the claimant; or

(7) any other lawful excuse.

(b) A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the charges are paid.

(c) Unless a person claiming the goods is a person against which the document of title does not confer a right under subdivision (a) of Section 7503:

(1) the person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(2) the bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.

7404. A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this division is not liable for the goods even if:

(1) the person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or

(2) the person to which the bailee delivered the goods did not have authority to receive the goods.

Chapter 5. Warehouse Receipts and Bills of Lading: Negotiation and Transfer

7501. (a) The following rules apply to a negotiable tangible document of title:

(1) If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.

(2) If the document's original terms run to bearer, it is negotiated by delivery alone.

(3) If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.

(4) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.

(5) A document is duly negotiated if it is negotiated in the manner stated in this subdivision to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.

(b) The following rules apply to a negotiable electronic document of title:

(1) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(2) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(3) A document is duly negotiated if it is negotiated in the manner stated in this subdivision to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

(d) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

7502. (a) Subject to Sections 7205 and 7503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

(1) title to the document;

(2) title to the goods;

(3) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(4) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this division, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(b) Subject to Section 7503, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:

(1) the due negotiation or any prior due negotiation constituted a breach of duty;

(2) any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; or

(3) a previous sale or other transfer of the goods or document has been made to a third person.

7503. (a) A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under Section 7403; or

(C) power of disposition under Section 2403 or 9320 or subdivision (c) of Section 9321 or subdivision (b) of Section 10304 or subdivision (b) of Section 10305 or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or its nominee of any document.

(b) Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under Section 7504 to the same extent as the rights of the issuer or a transferee from the issuer.

(c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier

in accordance with Chapter 4 (commencing with Section 7401) pursuant to its own bill of lading discharges the carrier's obligation to deliver.

7504. (a) A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.

(b) In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

(1) by those creditors of the transferor which could treat the transfer as void under Section 2402 or 10308;

(2) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights;

(3) by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or

(4) as against the bailee, by good-faith dealings of the bailee with the transferor.

(c) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under Section 2705 or a lessor under Section 10526, subject to the requirements of due notification in those sections. A bailee that honors the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

7505. The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or previous endorsers.

7506. The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

7507. If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under Section 7508, unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

(1) the document is genuine;

(2) the transferor does not have knowledge of any fact that would impair the document's validity or worth; and

(3) the negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

7508. A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

7509. Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is determined by Division 2 (commencing with Section 2101), Division 5 (commencing with Section 5101), or Division 10 (commencing with Section 10101).

Chapter 6. Warehouse Receipts and Bills Of Lading: Miscellaneous Provisions

7601. (a) If a document of title is lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court may also order payment of the bailee's reasonable costs and attorney's fees in any action under this subdivision.

(b) A bailee that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery which files a notice of claim within one year after the delivery.

7602. Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first

surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

7603. If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods or by original action.

SEC. 50. Section 8102 of the Commercial Code is amended to read:

8102. (a) In this division:

(1) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(2) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(3) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(4) "Certificated security" means a security that is represented by a certificate.

(5) "Clearing corporation" means any of the following:

(A) A person that is registered as a "clearing agency" under the federal securities laws.

(B) A federal reserve bank.

(C) Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(6) "Communicate" means to either:

(A) Send a signed writing.

(B) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(7) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security

entitlement by virtue of paragraph (2) or (3) of subdivision (b) of Section 8501, that person is the entitlement holder.

(8) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(9) "Financial asset," except as otherwise provided in Section 8103, means any of the following:

(A) A security.

(B) An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, that is, or is of a type, dealt in or traded on financial markets, or that is recognized in any area in which it is issued or dealt in as a medium for investment.

(C) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this division. As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(10) [Reserved]

(11) "Endorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(12) "Instruction" means a notification communicated to the issuer of an uncertificated security that directs that the transfer of the security be registered or that the security be redeemed.

(13) "Registered form," as applied to a certificated security, means a form in which both of the following apply:

(A) The security certificate specifies a person entitled to the security.

(B) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(14) "Securities intermediary" means either:

(A) A clearing corporation.

(B) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(15) "Security," except as otherwise provided in Section 8103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer that is all of the following:

(A) It is represented by a security certificate in bearer or registered form, or the transfer of it may be registered upon books maintained for that purpose by or on behalf of the issuer.

(B) It is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

(C) It is either of the following:

(i) It is, or is of a type, dealt in or traded on securities exchanges or securities markets.

(ii) It is a medium for investment and by its terms expressly provides that it is a security governed by this division.

(16) "Security certificate" means a certificate representing a security.

(17) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Chapter 5 (commencing with Section 8501).

(18) "Uncertificated security" means a security that is not represented by a certificate.

(b) Other definitions applying to this division and the sections in which they appear are:

Appropriate person. Section 8107.

Control. Section 8106.

Delivery. Section 8301.

Investment company security. Section 8103.

Issuer. Section 8201.

Overissue. Section 8210.

Protected purchaser. Section 8303.

Securities account. Section 8501.

(c) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

(d) The characterization of a person, business, or transaction for purposes of this division does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

SEC. 51. Section 8103 of the Commercial Code is amended to read:

8103. (a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security

does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this division, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this division and not by Division 3 (commencing with Section 3101), even though it also meets the requirements of that division. However, a negotiable instrument governed by Division 3 (commencing with Section 3101) is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in paragraph (15) of subdivision (a) of Section 9102, is not a security or a financial asset.

(g) A document of title is not a financial asset unless subparagraph (C) of paragraph (9) of subdivision (a) of Section 8102 applies.

SEC. 52. Section 9102 of the Commercial Code is amended to read:

9102. (a) In this division:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health care insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record that is all of the following:

(A) Authenticated by a secured party.

(B) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record.

(C) Identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest in farm products that meets all of the following conditions:

(A) It secures payment or performance of an obligation for either of the following:

(i) Goods or services furnished in connection with a debtor's farming operation.

(ii) Rent on real property leased by a debtor in connection with its farming operation.

(B) It is created by statute in favor of a person that does either of the following:

(i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation.

(ii) Leased real property to a debtor in connection with the debtor's farming operation.

(C) Its effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means either of the following:

(A) Oil, gas, or other minerals that are subject to a security interest that does both of the following:

(i) Is created by a debtor having an interest in the minerals before extraction.

(ii) Attaches to the minerals as extracted.

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means to do either of the following:

(A) To sign.

(B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes all of the following:

(A) Proceeds to which a security interest attaches.

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold.

(C) Goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which either of the following conditions is satisfied:

(A) The claimant is an organization.

(B) The claimant is an individual and both of the following conditions are satisfied regarding the claim:

(i) It arose in the course of the claimant's business or profession.

(ii) It does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is either of the following:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws.

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that is either of the following:

(A) Is registered as a futures commission merchant under federal commodities law.

(B) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means to do any of the following:

(A) To send a written or other tangible record.

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record.

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and all of the following conditions are satisfied:

(A) The merchant satisfies all of the following conditions:

(i) He or she deals in goods of that kind under a name other than the name of the person making delivery.

(ii) He or she is not an auctioneer.

(iii) He or she is not generally known by its creditors to be substantially engaged in selling the goods of others.

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery.

(C) The goods are not consumer goods immediately before delivery.

(D) The transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which both of the following conditions are satisfied:

(A) An individual incurs an obligation primarily for personal, family, or household purposes.

(B) A security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which does both of the following:

(A) Identifies, by its file number, the initial financing statement to which it relates.

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means any of the following:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor.

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes.

(C) A consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in subdivision (b) of Section 7201.

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are any of the following:

(A) Crops grown, growing, or to be grown, including both of the following:

(i) Crops produced on trees, vines, and bushes.

(ii) Aquatic goods produced in aquacultural operations.

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations.

(C) Supplies used or produced in a farming operation.

(D) Products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to subdivision (a) of Section 9519.

(37) "Filing office" means an office designated in Section 9501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to Section 9526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subdivisions (a) and (b) of Section 9502. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) [Reserved]

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.

The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health care insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health care goods or services provided or to be provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which are any of the following:

(A) Leased by a person as lessor.

(B) Held by a person for sale or lease or to be furnished under a contract of service.

(C) Furnished by a person under a contract of service.

(D) Consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) (A) "Lien creditor" means any of the following:

(i) A creditor that has acquired a lien on the property involved by attachment, levy, or the like.

(ii) An assignee for benefit of creditors from the time of assignment.

(iii) A trustee in bankruptcy from the date of the filing of the petition.

(iv) A receiver in equity from the time of appointment.

(B) "Lien creditor" does not include a creditor who by filing a notice with the Secretary of State has acquired only an attachment or judgment lien on personal property, or both.

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body-feet or more in width or 40 body-feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured home transaction" means a secured transaction that satisfies either of the following:

(A) It creates a purchase money security interest in a manufactured home, other than a manufactured home held as inventory.

(B) It is a secured transaction in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under subdivision (d) of Section 9203 by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for

payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor," except as used in subdivision (c) of Section 9310, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under subdivision (d) of Section 9203.

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means any of the following:

(A) The spouse of the individual.

(B) A brother, brother-in-law, sister, or sister-in-law of the individual.

(C) An ancestor or lineal descendant of the individual or the individual's spouse.

(D) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means any of the following:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization.

(B) An officer or director of, or a person performing similar functions with respect to, the organization.

(C) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A).

(D) The spouse of an individual described in subparagraph (A), (B), or (C).

(E) An individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds," except as used in subdivision (b) of Section 9609, means any of the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral.

(B) Whatever is collected on, or distributed on account of, collateral.

(C) Rights arising out of collateral.

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral.

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party that includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 9620, 9621, and 9622.

(67) "Public finance transaction" means a secured transaction in connection with which all of the following conditions are satisfied:

(A) Debt securities are issued.

(B) All or a portion of the securities issued have an initial stated maturity of at least 20 years.

(C) The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that either of the following conditions are satisfied:

(A) The obligor's obligation is secondary.

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means any of the following:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding.

(B) A person that holds an agricultural lien.

(C) A consignor.

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold.

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for.

(F) A person that holds a security interest arising under Section 2401, 2505, 4210, or 5118, or under subdivision (3) of Section 2711 or subdivision (5) of Section 10508.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send," in connection with a record or notification, means to do either of the following:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances.

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, document, general intangible, instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement that does both of the following:

(A) Identifies, by its file number, the initial financing statement to which it relates.

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of any of the following:

(A) Operating a railroad, subway, street railway, or trolley bus.

(B) Transmitting communications electrically, electromagnetically, or by light.

(C) Transmitting goods by pipeline or sewer.

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) The following definitions in other divisions apply to this division:

"Applicant"	Section 5102.
"Beneficiary"	Section 5102.
"Broker"	Section 8102.
"Certificated security"	Section 8102.
"Check"	Section 3104.
"Clearing corporation"	Section 8102.
"Contract for sale"	Section 2106.
"Control"	Section 7106.
"Customer"	Section 4104.
"Entitlement holder"	Section 8102.
"Financial asset"	Section 8102.
"Holder in due course"	Section 3302.
"Issuer" (with respect to a letter of credit or letter–of–credit right)	Section 5102.
"Issuer" (with respect to a security)	Section 8201.
"Issuer" (with respect to documents of title)	Section 7102.
"Lease"	Section 10103.
"Lease agreement"	Section 10103.
"Lease contract"	Section 10103.
"Leasehold interest"	Section 10103.
"Lessee"	Section 10103.
"Lessee in ordinary course of business"	Section 10103.
"Lessor"	Section 10103.
"Lessor's residual interest"	Section 10103.
"Letter of credit"	Section 5102.
"Merchant"	Section 2104.
"Negotiable instrument"	Section 3104.
"Nominated person"	Section 5102.
"Note"	Section 3104.
"Proceeds of a letter of credit"	Section 5114.
"Prove"	Section 3103.
"Sale"	Section 2106.
"Securities account"	Section 8501.
"Securities intermediary"	Section 8102.
"Security"	Section 8102.
"Security certificate"	Section 8102.

"Security entitlement"	Section 8102.
"Uncertificated security"	Section 8102.

(c) Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 53. Section 9203 of the Commercial Code is amended to read:

9203. (a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subdivisions (c) to (i), inclusive, a security interest is enforceable against the debtor and third parties with respect to the collateral only if each of the following conditions is satisfied:

(1) Value has been given.

(2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party.

(3) One of the following conditions is met:

(A) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned.

(B) The collateral is not a certificated security and is in the possession of the secured party under Section 9313 pursuant to the debtor's security agreement.

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 8301 pursuant to the debtor's security agreement.

(D) The collateral is deposit accounts, electronic chattel paper, investment property, letter-of-credit rights, or electronic documents and the secured party has control under Section 7106, 9104, 9105, 9106, or 9107 pursuant to the debtor's security agreement.

(c) Subdivision (b) is subject to Section 4210 on the security interest of a collecting bank, Section 5118 on the security interest of a letter-of-credit issuer or nominated person, Section 9110 on a security interest arising under Division 2 (commencing with Section 2101) or Division 10 (commencing with Section 10101), and Section 9206 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this division or by contract, either of the following conditions is satisfied:

(1) The security agreement becomes effective to create a security interest in the person's property.

(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person, both of the following apply:

(1) The agreement satisfies paragraph (3) of subdivision (b) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement.

(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by Section 9315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

SEC. 54. Section 9207 of the Commercial Code is amended to read:

9207. (a) Except as otherwise provided in subdivision (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subdivision (d), if a secured party has possession of collateral, all of the following apply:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral.

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage.

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled.

(4) The secured party may use or operate the collateral for any of the following purposes:

(A) For the purpose of preserving the collateral or its value.

(B) As permitted by an order of a court having competent jurisdiction.

(C) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in subdivision (d), a secured party having possession of collateral or control of collateral under Section 7106, 9104, 9105, 9106, or 9107 may or shall, as the case may be, do all of the following:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral.

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor.

(3) May create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, both of the following apply:

(1) Subdivision (a) does not apply unless the secured party is entitled under an agreement to either of the following:

(A) To charge back uncollected collateral.

(B) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral.

(2) Subdivisions (b) and (c) do not apply.

SEC. 55. Section 9208 of the Commercial Code is amended to read:

9208. (a) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within 10 days after receiving an authenticated demand by the debtor, all of the following apply:

(1) A secured party having control of a deposit account under paragraph (2) of subdivision (a) of Section 9104 shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party.

(2) A secured party having control of a deposit account under paragraph (3) of subdivision (a) of Section 9104 shall do either of the following:

(A) Pay the debtor the balance on deposit in the deposit account.

(B) Transfer the balance on deposit into a deposit account in the debtor's name.

(3) A secured party, other than a buyer, having control of electronic chattel paper under Section 9105 shall do all of the following:

(A) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian.

(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor.

(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

(4) A secured party having control of investment property under paragraph (2) of subdivision (d) of Section 8106 or under subdivision (b) of Section 9106 shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party.

(5) A secured party having control of a letter-of-credit right under Section 9107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

(6) A secured party having control of an electronic document under Section 7106 shall:

(A) give control of the electronic document to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

SEC. 56. Section 9301 of the Commercial Code is amended to read:

9301. Except as otherwise provided in Sections 9303 to 9306, inclusive, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in paragraph (4), while negotiable tangible documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs all of the following:

(A) Perfection of a security interest in the goods by filing a fixture filing.

(B) Perfection of a security interest in timber to be cut.

(C) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

SEC. 57. Section 9310 of the Commercial Code is amended to read:

9310. (a) Except as otherwise provided in subdivision (b) and in subdivision (b) of Section 9312, a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest that satisfies any of the following conditions:

(1) It is perfected under subdivision (d), (e), (f), or (g) of Section 9308.

(2) It is perfected under Section 9309 when it attaches.

(3) It is a security interest in property subject to a statute, regulation, or treaty described in subdivision (a) of Section 9311.

(4) It is a security interest in goods in possession of a bailee which is perfected under paragraph (1) or (2) of subdivision (d) of Section 9312.

(5) It is a security interest in certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under subdivision (e), (f), or (g) of Section 9312.

(6) It is a security interest in collateral in the secured party's possession under Section 9313.

(7) It is a security interest in a certificated security which is perfected by delivery of the security certificate to the secured party under Section 9313.

(8) It is a security interest in deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under Section 9314.

(9) It is a security interest in proceeds which is perfected under Section 9315.

(10) It is perfected under Section 9316.

(11) It is a security interest in, or claim in or under, any policy of insurance including unearned premiums which is perfected by written notice to the insurer under paragraph (4) of subdivision (b) of Section 9312.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under this division is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

SEC. 58. Section 9312 of the Commercial Code is amended to read:

9312. (a) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Except as otherwise provided in subdivisions (c) and (d) of Section 9315 for proceeds, all of the following apply:

(1) A security interest in a deposit account may be perfected only by control under Section 9314.

(2) Except as otherwise provided in subdivision (d) of Section 9308, a security interest in a letter-of-credit right may be perfected only by control under Section 9314.

(3) A security interest in money may be perfected only by the secured party's taking possession under Section 9313.

(4) A security interest in, or claim in or under, any policy of insurance, including unearned premiums, may be perfected only by giving written notice of the security interest or claim to the insurer. This paragraph does not apply to a health care insurance receivable. A security interest in a health care insurance receivable may be perfected only as otherwise provided in this division.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods, both of the following apply:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document.

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by any of the following methods:

(1) Issuance of a document in the name of the secured party.

(2) The bailee's receipt of notification of the secured party's interest.

(3) Filing as to the goods.

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of either of the following:

(1) Ultimate sale or exchange.

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of either of the following:

(1) Ultimate sale or exchange.

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) After the 20-day period specified in subdivision (e), (f), or (g) expires, perfection depends upon compliance with this division.

SEC. 59. Section 9313 of the Commercial Code is amended to read:

9313. (a) Except as otherwise provided in subdivision (b), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 8301.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in subdivision (d) of Section 9316.

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course

of the debtor's business, when either of the following conditions is satisfied:

(1) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit.

(2) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under Section 8301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit, both of the following apply:

(1) The acknowledgment is effective under subdivision (c) or under subdivision (a) of Section 8301, even if the acknowledgment violates the rights of a debtor.

(2) Unless the person otherwise agrees or law other than this division otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery to do either of the following:

(1) To hold possession of the collateral for the secured party's benefit.

(2) To redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under subdivision (h) violates the rights of a debtor. A person to which collateral is delivered under subdivision (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this division otherwise provides.

SEC. 60. Section 9314 of the Commercial Code is amended to read:

9314. (a) A security interest in investment property, deposit accounts, letter-of-credit rights, electronic chattel paper, or electronic documents

may be perfected by control of the collateral under Section 7106, 9104, 9105, 9106, or 9107.

(b) A security interest in deposit accounts, electronic chattel paper, letter-of-credit rights, or electronic documents is perfected by control under Section 7106, 9104, 9105, or 9107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under Section 9106 from the time the secured party obtains control and remains perfected by control until both of the following conditions are satisfied:

(1) The secured party does not have control.

(2) One of the following occurs:

(A) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate.

(B) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner.

(C) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

SEC. 61. Section 9317 of the Commercial Code is amended to read:

9317. (a) A security interest or agricultural lien is subordinate to the rights of both of the following:

(1) A person entitled to priority under Section 9322.

(2) Except as otherwise provided in subdivision (e), a person that becomes a lien creditor before the earlier of the time the security interest or agricultural lien is perfected, or one of the conditions specified in paragraph (3) of subdivision (b) of Section 9203 is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subdivision (e), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subdivision (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in Sections 9320 and 9321, if a person files a financing statement with respect to a purchase money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

SEC. 62. Section 9338 of the Commercial Code is amended to read:

9338. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in paragraph (5) of subdivision (b) of Section 9516 which is incorrect at the time the financing statement is filed, both of the following apply:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information.

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

SEC. 63. Section 9601 of the Commercial Code is amended to read:

9601. (a) After default, a secured party has the rights provided in this chapter and, except as otherwise provided in Section 9602, those rights provided by agreement of the parties. A secured party may do both of the following:

(1) Reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure.

(2) If the collateral is documents, proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under Section 7106, 9104, 9105, 9106, or 9107 has the rights and duties provided in Section 9207.

(c) The rights under subdivisions (a) and (b) are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subdivision (g) and in Section 9605, after default, a debtor and an obligor have the rights provided in this chapter and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of any of the following:

(1) The date of perfection of the security interest or agricultural lien in the collateral.

(2) The date of filing a financing statement covering the collateral.

(3) Any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this division.

(g) Except as otherwise provided in subdivision (c) of Section 9607, this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

SEC. 64. Section 10103 of the Commercial Code is amended to read:

10103. (a) In this division, unless the context otherwise requires:

(1) "Buyer in ordinary course of business" means a person who, in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(2) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(3) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(4) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(5) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.

(6) "Fault" means wrongful act, omission, breach, or default.

(7) "Finance lease" means a lease with respect to which (A) the lessor does not select, manufacture, or supply the goods, (B) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease, and (C) one of the following occurs:

(i) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract.

(ii) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract.

(iii) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(iv) The lessor, before the lessee signs the lease contract, informs the lessee in writing (aa) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (bb) that the lessee is entitled under this division to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (cc) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(8) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (Section 10309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(9) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(10) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security

interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(11) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this division. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(12) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this division and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(13) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(14) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(15) "Lessee in ordinary course of business" means a person who, in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind, but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(16) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(17) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(18) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(19) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(20) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(21) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the

rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(22) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(23) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(24) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(25) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(26) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(b) Other definitions applying to this division and the sections in which they appear are:

"Accessions." Subdivision (a) of Section 10310.

"Construction mortgage." Paragraph (4) of subdivision (a) of Section 10309.

"Encumbrance." Paragraph (5) of subdivision (a) of Section 10309.

"Fixtures." Paragraph (1) of subdivision (a) of Section 10309.

"Fixture filing." Paragraph (2) of subdivision (a) of Section 10309.

"Purchase money lease." Paragraph (3) of subdivision (a) of Section 10309.

(c) The following definitions in other divisions apply to this division:

"Account." Paragraph (2) of subdivision (a) of Section 9102.

"Between merchants." Subdivision (3) of Section 2104.

"Buyer." Paragraph (a) of subdivision (1) of Section 2103.

"Chattel paper." Paragraph (11) of subdivision (a) of Section 9102.

"Consumer goods." Paragraph (23) of subdivision (a) of Section 9102.

"Document." Paragraph (30) of subdivision (a) of Section 9102.

"Entrusting." Subdivision (3) of Section 2403.

"General intangible." Paragraph (42) of subdivision (a) of Section 9102.

"Instrument." Paragraph (47) of subdivision (a) of Section 9102.

"Merchant." Subdivision (1) of Section 2104.

"Mortgage." Paragraph (55) of subdivision (a) of Section 9102.

"Pursuant to commitment." Paragraph (68) of subdivision (a) of Section 9102.

"Receipt of goods." Paragraph (c) of subdivision (1) of Section 2103.

"Sale." Subdivision (1) of Section 2106.

"Sale on approval." Section 2326.

"Sale or return." Section 2326.

"Seller." Paragraph (d) of subdivision (1) of Section 2103.

(d) In addition, Division 1 contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 65. Section 10207 of the Commercial Code is repealed.

SEC. 66. Section 10501 of the Commercial Code is amended to read:

10501. (a) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this division.

(b) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this division and, except as limited by this division, as provided in the lease agreement.

(c) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this division.

(d) Except as otherwise provided in subdivision (a) of Section 1305 or this division or the lease agreement, the rights and remedies referred to in subdivisions (b) and (c) are cumulative.

(e) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this chapter as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this chapter does not apply.

SEC. 67. Section 10514 of the Commercial Code is amended to read:

10514. (a) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(1) If, stated seasonably, the lessor or the supplier could have cured it (Section 10513); or

(2) Between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(b) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent in the documents.

SEC. 68. Section 10518 of the Commercial Code is amended to read:

10518. (a) After a default by a lessor under the lease contract of the type described in subdivision (a) of Section 10508, or, if agreed, after other default by the lessor, the lessee may cover by making any purchase

or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(b) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Sections 1302 and 10503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (1) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (2) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

(c) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subdivision (b), or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and Section 10519 governs.

SEC. 69. Section 10519 of the Commercial Code is amended to read:

10519. (a) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Sections 1302 and 10503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under subdivision (b) of Section 10518, or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(b) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(c) Except as otherwise agreed, if the lessee has accepted goods and given notification (subdivision (c) of Section 10516), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together

with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(d) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

SEC. 70. Section 10526 of the Commercial Code is amended to read:

10526. (a) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security, or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

(b) In pursuing its remedies under subdivision (a), the lessor may stop delivery until:

(1) Receipt of the goods by the lessee;

(2) Acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

(3) Such an acknowledgment to the lessee by a carrier via reshipment or as a warehouse.

(c) (1) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(2) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(3) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

SEC. 71. Section 10527 of the Commercial Code is amended to read:

10527. (a) After a default by a lessee under the lease contract of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523 or after the lessor refuses to deliver or takes possession of goods (Section 10525 or 10526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(b) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Sections 1302 and 10503), if the disposition is by lease agreement substantially similar to the original lease agreement

and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (1) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (2) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (3) any incidental damages allowed under Section 10530, less expenses saved in consequence of the lessee's default.

(c) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subdivision (b), or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and Section 10528 governs.

(d) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this division.

(e) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (subdivision (e) of Section 10508).

SEC. 72. Section 10528 of the Commercial Code is amended to read:

10528. (a) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Sections 1302 and 10503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under subdivision (b) of Section 10527, or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523, or, if agreed, for other default of the lessee, (1) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (2) the present value as of the date determined under paragraph (1) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (3) any incidental damages allowed under Section 10530, less expenses saved in consequence of the lessee's default.

(b) If the measure of damages provided in subdivision (a) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under Section 10530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

SEC. 73. Section 11105 of the Commercial Code is amended to read:

11105. (a) In this division:

(1) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

(2) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this division.

(3) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(4) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

(5) "Funds-transfer system" means a wire transfer network, automated clearinghouse, or other communication system of a clearinghouse or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(6) [Reserved]

(7) "Prove" with respect to a fact means to meet the burden of establishing the fact under subdivision (8) of Section 1201.

(b) Other definitions applying to this division and the sections in which they appear are:

Acceptance: Section 11209.

Beneficiary: Section 11103.

Beneficiary's bank: Section 11103.

Executed: Section 11301.

Execution date: Section 11301.

Funds transfer: Section 11104.

Funds-transfer system rule: Section 11501.

Intermediary bank: Section 11104.

Originator: Section 11104.

Originator's bank: Section 11104.
Payment by beneficiary's bank to beneficiary: Section 11405.
Payment by originator to beneficiary: Section 11406.
Payment by sender to receiving bank: Section 11403.
Payment date: Section 11401.
Payment order: Section 11103.
Receiving bank: Section 11103.
Security procedure: Section 11201.
Sender: Section 11103.

(c) The following definitions in Division 4 (commencing with Section 4101) apply to this division:
Clearinghouse: Section 4104.
Item: Section 4104.
Suspends payments: Section 4104.

(d) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 74. Section 11106 of the Commercial Code is amended to read:

11106. (a) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in Section 1202. A receiving bank may fix a cutoff time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cutoff times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cutoff time may apply to senders generally or different cutoff times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cutoff time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

(b) If this division refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this division.

SEC. 75. Section 11204 of the Commercial Code is amended to read:

11204. (a) If a receiving bank accepts a payment order issued in the name of its customer as sender which is (i) not authorized and not effective as the order of the customer under Section 11202, or (ii) not enforceable, in whole or in part, against the customer under Section

11203, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding 90 days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.

(b) Reasonable time under subdivision (a) may be fixed by agreement as stated in subdivision (b) of Section 1302, but the obligation of a receiving bank to refund payment as stated in subdivision (a) may not otherwise be varied by agreement.

SEC. 76. Section 13104 of the Commercial Code is repealed.

SEC. 77. Section 55702 of the Food and Agricultural Code is amended to read:

55702. (a) Except as otherwise provided in this section, any person who sells or furnishes livestock to a meatpacker, shall have a lien, not dependent upon possession, on the livestock and upon the identifiable proceeds and products thereof, for the unpaid part of the purchase price, or for the unpaid value of the livestock at the time of the transfer of possession if no purchase price has been agreed upon. The lien shall commence on the date of the transfer of possession of the livestock to the meatpacker and shall have priority over all other liens upon, and security interests in, the livestock and the identifiable proceeds and products thereof, without regard to the time of attachment or perfection of such other liens or security interests and shall remain a lien upon the livestock and the identifiable proceeds and products thereof notwithstanding sale, exchange, or other disposition thereof.

(b) Notwithstanding the provisions of subdivision (a), a buyer in the ordinary course of business, as that term is defined in paragraph (9) of subdivision (b) of Section 1201 of the Commercial Code, shall take free of such lien even though the buyer knows of the existence of the lien.

(c) Notwithstanding the provisions of subdivision (a), the lien shall cease to be of any force or effect after the expiration of 21 days from the date of delivery of the livestock unless a notice of lien is filed pursuant to subdivision (e), in which case the lien shall remain effective as long as such notice shall remain effective.

(d) No person shall have a lien pursuant to subdivision (a) to the extent that the person shall have made the livestock available to the meatpacker on credit terms.

(e) Any person selling or delivering livestock who claims a lien under this article shall file a statement with the Secretary of State and a copy thereof with the director, both within 21 days after delivery of the livestock to the meatpacker. The statement shall be in writing, verified by the oath of the person filing, and shall contain all of the following:

(1) The name and address of the person filing.

(2) A statement of the amount demanded by the person filing the statement after deducting all credits and offsets.

(3) The name and address of the meatpacker who received the livestock.

(4) A description of the livestock delivered to the meatpacker and the date of delivery.

(5) A statement that the amount claimed is a true and bona fide existing debt as of the date of the statement.

(6) A statement that the amount claimed is a true and bona fide existing debt as of the date on which payment was due for the livestock.

(f) Every statement that is filed shall be accompanied by the fees required by Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code in the case of a financing statement not on the standard form and shall remain effective for a period of five years from the date of filing.

SEC. 78. Section 7152 of the Government Code is amended to read:

7152. "Buyer in ordinary course of business" has the same meaning as defined in paragraph (9) of subdivision (b) of Section 1201 of the Commercial Code.

SEC. 79. Section 574 of the Penal Code is amended to read:

574. As used in this chapter, the following terms have the following meanings:

(a) "Buyer" has the meaning set forth in subdivision (c) of Section 2981 of the Civil Code.

(b) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981 of the Civil Code. Notwithstanding subdivision (k) of Section 2981 of the Civil Code, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(c) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased.

(d) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7 of the

Civil Code. Notwithstanding subdivision (d) of Section 2985.7 of the Civil Code, "lease contract" includes a lease for business or commercial purposes.

(e) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(f) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(g) "Purchaser" has the meaning set forth in paragraph (30) of subdivision (b) of Section 1201 of the Commercial Code.

(h) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (73) and (72) of subdivision (a) of Section 9102 of the Commercial Code. "Security interest" has the meaning set forth in paragraph (35) of subdivision (b) of Section 1201 of the Commercial Code.

(i) "Seller" has the meaning set forth in subdivision (b) of Section 2981 of the Civil Code, and includes the present holder of the conditional sale contract.

SEC. 80. Section 49 of this act applies to a document of title that is issued or a bailment that arises on or after January 1, 2007. That section does not apply to a document of title that is issued or a bailment that arises before January 1, 2007, even if the document of title or bailment would be subject to that section if the document of title had been issued or bailment had arisen on or after January 1, 2007. Section 49 of this act does not apply to a right of action that has accrued before January 1, 2007.

SEC. 81. A document of title issued or a bailment that arises before January 1, 2007, and the rights, obligations, and interests flowing from that document or bailment are governed by any statute or other rule amended or repealed by this act as if amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

CHAPTER 255

An act relating to state property, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. (a) (1) Except as provided in subdivision (b), the Director of General Services shall sell, lease, convey, or exchange at current fair market value to the City of Folsom, upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interests of the state, all or any part of the following real property:

(2) No more than 13 acres of the facility known as the California Department of Corrections, Correctional Facility, Folsom, Sacramento County Assessor Parcel Number 071-0010-010, and no more than one acre of the facility known as the California Department of Parks and Recreation, Folsom Lake State Park, Sacramento County Assessor Parcel Number 227-0222-008.

(b) In no event may the director sell, lease, convey, or exchange the property identified in subdivision (a) at a value less than fair market value.

SEC. 2. Any sale, lease, conveyance, or exchange of the parcels described in this act is exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

SEC. 3. The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of the property described in subdivision (a) of Section 1 of this act from the net proceeds of the disposition. The net proceeds of any moneys received from the disposition of the parcels described in this act shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, as created by subdivision (f) of Section 20 of Article XVI of the California Constitution.

SEC. 4. In implementing this act, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed that the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the City of Folsom to complete the Folsom Dam Bridge project in an expedited and timely manner, it is necessary that this act take effect immediately.

CHAPTER 256

An act to add Chapter 7 (commencing with Section 12500) to Part 2 of Division 2 of the Public Contract Code, relating to state contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Chapter 7 (commencing with Section 12500) is added to Part 2 of Division 2 of the Public Contract Code, to read:

Chapter 7. The Federal Laboratory Contracting Act

12500. This chapter shall be known and may be cited as the Federal Laboratory Contracting Act.

12501. The Legislature finds and declares all of the following:

(a) Technological advances are an important part of California's economy and, therefore, it would be wise for state agencies to contract, in a facile and efficient manner, with federally funded Department of Energy (DOE) and National Aeronautics and Space Administration (NASA) research and development centers and NASA field centers located in California that are often at the forefront of science and technology.

(b) As the major funding agency and owner of several research and development centers located in California, DOE allows outside parties to contract with the centers but requires the centers, when initiating and finalizing any contracts with outside parties, to adhere to rigorous policies and procedures specified by federal laws and regulations. NASA adheres to similar federal laws and regulations when initiating and finalizing contracts between its research and development centers or field centers in California and outside parties. The State of California has its own laws, regulations, and procedures governing state contracts. The research and development centers and field centers owned or owned and operated by DOE and NASA have attempted to contract with state agencies and departments in California but have had minimal success. Conflicting

provisions in federal and state laws, regulations, and policies, and seemingly unachievable compromises appear to be the major limiting factors in the successful negotiation of contracts between the federally funded centers and California state agencies and departments.

12501.5. (a) The Governor shall designate the Secretary of State and Consumer Services as the state's representative for purposes of communicating and negotiating with representatives of the United States Department of Energy, National Aeronautics and Space Administration, federally funded DOE and NASA research and development centers in California, and NASA field centers in California regarding any issue that may affect a contractual relationship between the state and these federal entities. The Secretary of State and Consumer Services may delegate this responsibility to the Director of the Department of General Services if the secretary views such delegation as necessary to advance the successful negotiation of contracts between the state and one or more of those federal entities.

(b) The Secretary of State and Consumer Services or his or her designee shall develop policies and procedures to encourage and enable the contracting process with federally funded DOE and NASA research and development centers and NASA field centers and shall develop model contract language that is available for use by any state agency or department in negotiating a contract with one of these centers. The Regents of the University of California shall not be considered a state agency for the purposes of this chapter, and specifically shall not be covered as prime contractor with the DOE for management of DOE laboratories.

12502. (a) Notwithstanding any other law, a state agency that enters into a prime contract with a federally funded DOE or NASA research and development center or NASA field center, or that enters into a prime contract with another entity that, in turn, issues a subcontract to a federally funded DOE or NASA research and development center or a NASA field center located in California may, if requested by the contracting party, make contract payments to the center for contracted services in advance.

(b) Notwithstanding any other law, a state agency that enters into a prime contract with a federally funded DOE or NASA research and development center or NASA field center, or that enters into a prime contract with another entity that, in turn, issues a subcontract to a federally funded DOE or NASA research and development center or NASA field center located in the state may not indemnify the center with respect to products liability, intellectual property, and general liability claims arising out of the activities to be carried out by the center pursuant to the contract.

(c) Notwithstanding any other law, a state agency shall not audit the records of any federally funded DOE or NASA research and development center or NASA field center, but the state agency may rely on the services of any cognizant federal audit agency, including the Defense Contract Audit Agency, the United States Government Accountability Office, the DOE Office of Inspector General, and the NASA Office of Inspector General, to satisfy auditing requirements.

(d) For purposes of this chapter:

(1) "Federally funded research and development center" means a federally funded research and development center as defined in Subpart 2.1 of Part 2 of Subchapter A of Chapter 1 of Title 48 of the Code of Federal Regulations.

(2) "NASA field center" means a field center identified as such by NASA and authorized by Title III of the Space Act of 1958.

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

In order for California state agencies and departments to be able to contract, in a facile and efficient manner, with federally funded Department of Energy and NASA research and development centers and NASA field centers located in this state for purposes of developing new technologies that may protect public health and welfare, it is necessary that this act take effect immediately.

CHAPTER 257

An act to amend Section 736 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 736 of the Welfare and Institutions Code is amended to read:

736. (a) The Division of Juvenile Justice shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities, staff, and programs to provide that care. A person subject to this section shall not be transported to any facility

under the jurisdiction of the Division of Juvenile Justice until the director thereof has notified the committing court of the place to which that person is to be transported and the time at which he or she can be received.

(b) To determine who is best served by the Division of Juvenile Justice and who would be better served by the State Department of Mental Health, the Chief Deputy Secretary of the Division of Juvenile Justice and the Director of the State Department of Mental Health shall, at least annually, confer and establish policy with respect to the types of cases that should be the responsibility of each department.

CHAPTER 258

An act to amend Section 640 of the Penal Code, and to add Chapter 8 (commencing with Section 99580) to Part 11 of Division 10 of the Public Utilities Code, relating to transit.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 640 of the Penal Code is amended to read:

640. (a) Any of the acts described in subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment, when committed on or in any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A leased or rented facility or vehicle for which any of the entities described in paragraph (1) or (2) incur costs of cleanup, repair, or replacement as a result of any of those acts.

(b) (1) Evasion of the payment of a fare of the system.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) Playing sound equipment on or in a system facility or vehicle.

(4) Smoking, eating, or drinking in or on a system facility or vehicle in those areas where those activities are prohibited by that system.

(5) Expectorating upon a system facility or vehicle.

(6) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a public transit facility or vehicle.

(8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(9) (A) Willfully blocking the free movement of another person in a system facility or vehicle.

(B) This paragraph (9) shall not be interpreted to affect any lawful activities permitted or first amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(10) Skateboarding, roller skating, bicycle riding, or roller blading in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(11) (A) Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

(c) Notwithstanding subdivision (a), the City and County of San Francisco and the Los Angeles County Metropolitan Transportation Authority may enact and enforce an ordinance providing that any of the acts described in subdivision (b) on or in a facility or vehicle described in subdivision (a) for which the City and County of San Francisco or the Los Angeles County Metropolitan Transportation Authority has jurisdiction shall be subject only to an administrative penalty imposed and enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8

(commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors.

SEC. 2. Chapter 8 (commencing with Section 99580) is added to Part 11 of Division 10 of the Public Utilities Code, to read:

Chapter 8. Administrative Enforcement for Fare Evasion and Prohibited Conducts

99580. (a) Pursuant to subdivision (c) of Section 640 of the Penal Code, the City and County of San Francisco and the Los Angeles County Metropolitan Transportation Authority may enact and enforce an ordinance to impose and enforce an administrative penalty for any of the acts described in subdivision (b). The ordinance shall include the provisions of this chapter and shall not apply to minors.

(b) (1) Evasion of the payment of a fare of the system.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) Playing sound equipment on or in a system facility or vehicle.

(4) Smoking, eating, or drinking in or on a system facility or vehicle in those areas where those activities are prohibited by that system.

(5) Expectorating upon a system facility or vehicle.

(6) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a system facility or vehicle.

(8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(9) (A) Willfully blocking the free movement of another person in a system facility or vehicle.

(B) This paragraph shall not be interpreted to affect any lawful activities permitted or first amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(10) Skateboarding, roller skating, bicycle riding, or roller blading in a system facility, including a parking structure, or in a system vehicle. This paragraph does not apply to an activity that is necessary for utilization of a system facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a system vehicle, if that activity is conducted with the permission of the agency of the system in a manner that does not interfere with the safety of the bicyclist or other patrons of the system facility.

(11) (A) Unauthorized use of a discount ticket or failure to present, upon request from a system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155, and posted system identification policies when entering or exiting a system station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, an issued notice of fare evasion or passenger conduct violation shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, that notice shall be voided. If the proof is not produced within that time period, that notice shall be processed.

(c) (1) The City and County of San Francisco and the Los Angeles County Metropolitan Transportation Authority may contract with a private vendor for the processing of notices of fare evasion or passenger conduct violation, and notices of delinquent fare evasion or passenger conduct violation pursuant to Section 99581.

(2) For the purpose of this chapter, "processing agency" means either of the following:

(A) The agency issuing the notice of fare evasion or passenger conduct violation and the notice of delinquent fare evasion or passenger conduct violation.

(B) The party responsible for processing the notice of fare evasion or passenger conduct violation and the notice of delinquent violation, if a contract is entered into pursuant to paragraph (1).

(3) For the purpose of this chapter, "fare evasion or passenger conduct violation penalty" includes, but is not limited to, a late payment penalty, administrative fee, fine, assessment, and costs of collection as provided for in the ordinance.

(4) All fare evasion and passenger conduct violation penalties collected by the processing agency in the City and County of San Francisco shall be deposited to the general fund of the City and County of San Francisco.

(5) All fare evasion and passenger conduct violation penalties collected by the Los Angeles County Metropolitan Transportation Authority shall be deposited in the general fund of the County of Los Angeles.

(d) (1) If a fare evasion or passenger conduct violation is observed by a person authorized to enforce the ordinance, a notice of fare evasion or passenger conduct violation shall be issued. The notice shall set forth the violation, including reference to the ordinance setting forth the administrative penalty, the date of the violation, the approximate time, and the location where the violation occurred. The notice shall include a printed statement indicating the date payment is required to be made, and the procedure for contesting the notice. The notice shall be served

by personal service upon the violator. The notice, or copy of the notice, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency, and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence.

(2) When a notice of fare evasion or passenger conduct violation has been served, the person issuing the notice shall file the notice with the processing agency.

(3) If a person contests a notice of fare evasion or passenger conduct violation, the issuing agency shall proceed in accordance with Section 99581.

99581. (a) For a period of 21 calendar days from the issuance to a person of the notice of fare evasion or passenger conduct violation, the person may request an initial review of the violation by the issuing agency. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur or that extenuating circumstances make dismissal of the administrative penalty appropriate in the interest of justice, the issuing agency shall cancel the notice. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit with the processing agency the amount due under the notice for which the administrative hearing is requested. The issuing agency shall provide a written procedure to allow a person to request an administrative hearing without payment of the amount due upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons requesting an administrative hearing. An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this chapter. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include all of the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with

a private vendor pursuant to paragraph (1) of subdivision (c) of Section 99580, hearings shall be held within the jurisdiction of the issuing agency.

(2) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested violations.

(3) The administrative review shall be conducted before a hearing officer designated to conduct the review by the issuing agency's governing body or chief executive officer. In addition to any other requirements of employment, a hearing officer shall demonstrate those qualifications, training, and objectivity prescribed by the issuing agency's governing body or chief executive as are necessary and which are consistent with the duties and responsibilities set forth in this chapter. The hearing officer's continued employment, performance evaluation, compensation, and benefits shall not be directly or indirectly linked to the amount of fare evasion or passenger conduct violation penalties imposed by the hearing officer.

(4) The person who issued the notice of fare evasion or passenger conduct violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of fare evasion or passenger conduct violation. The documentation in proper form shall be prima facie evidence of the violation pursuant to paragraph (1) of subdivision (d) of Section 99580.

(5) The hearing officer's decision following the administrative hearing may be personally delivered to the person by the hearing officer or sent by first-class mail.

(6) Following a determination by the hearing officer that a person committed the violation, the hearing officer may allow payment of the fare evasion or passenger conduct penalty in installments or deferred payment if the person provides satisfactory evidence of an inability to pay the fare evasion or passenger conduct penalty in full. If authorized by the issuing agency, the hearing officer may permit the performance of community service in lieu of payment of the fare evasion or passenger conduct penalty.

99582. (a) Within 30 calendar days after the mailing or personal delivery of the decision described in subdivision (c) of Section 99581, the person may seek review by filing an appeal to be heard by the superior court where the same shall be heard de novo, except that the contents of the processing agency's file in the case shall be received in evidence. A copy of the notice of fare evasion or passenger conduct violation shall be admitted into evidence as prima facie evidence of the facts stated therein establishing a rebuttable presumption affecting the burden of

producing evidence. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the person filing the appeal. For purposes of computing the 30-calendar-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited civil case.

(b) Notwithstanding any other provision of law, the fee for filing the notice of appeal shall be pursuant to paragraph (2) of subdivision (b) of Section 53069.4 of the Government Code. The court shall request that the processing agency's file on the case be forwarded to the court, to be received within 15 calendar days of the request. The court shall notify the appellant of the appearance date by mail or personal delivery. The court shall retain the fee regardless of the outcome of the appeal. If the court finds in favor of the appellant, the amount of the filing fee shall be reimbursed to the appellant by the processing agency. Any deposit of fare evasion or passenger conduct penalty shall be refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by a commissioner and other subordinate judicial officials at the direction of the presiding judge of the court.

(d) If a notice of appeal of the processing agency's decision described in subdivision (c) of Section 99581 is not filed within the period set forth in subdivision (a), that decision shall be deemed final.

SEC. 3. The Legislature finds and declares that because of the unique and special problems associated with fare evasion and passenger misconduct in a public transportation system in the City and County of San Francisco and the County of Los Angeles, it is necessary that minor transit violations, such as fare evasion and passenger misconduct, now punishable as an infraction, be adjudicated in that jurisdiction through a civil administrative process, and a statute of general applicability cannot be enacted within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 259

An act to amend Sections 127931, 128125, 128135, 128198, 128200, 128260, 128385, 128485, 128730, 128737, 128765, 128770, and 128775 of, to amend the heading of Chapter 4 (commencing with Section 128200) of, to amend the heading of Article 1 (commencing with Section 128200) of Chapter 4 of, Part 3 of Division 107 of the Health and Safety Code, relating to health care.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

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

SECTION 1. Section 127931 of the Health and Safety Code is amended to read:

127931. (a) The office shall distribute student applications to participate in the program to postsecondary institutions eligible to participate in the state and federal financial aid programs and that have a program of professional preparation that has been approved by the Medical Board of California or the Dental Board of California. Each eligible institution shall receive at least one application.

(b) Each participating institution shall sign an institutional agreement with the office, certifying its intent to administer the program according to all applicable published rules, regulations, and guidelines, and shall make special efforts to notify students regarding the availability of the program, particularly to economically disadvantaged students.

(c) To the extent feasible, the office and each participating institution shall coordinate this program with other existing programs designed to recruit or encourage students to enter the medical and dental professions. These programs shall include, but not be limited to, the following:

(1) The Song-Brown Health Care Workforce Training Act.

(2) The Health Education and Academic Loan Act.

(3) The National Health Service Corp.

SEC. 2. Section 128125 of the Health and Safety Code is amended to read:

128125. The Legislature finds that there is a need to improve the effectiveness of health care delivery systems. One way of accomplishing that objective is to utilize health care personnel in new roles and to reallocate health tasks to better meet the health needs of the citizenry.

The Legislature finds that experimentation with new kinds and combinations of health care delivery systems is desirable, and that, for purposes of this experimentation, a select number of publicly evaluated health workforce pilot projects should be exempt from the healing arts practices acts. The Legislature also finds that large sums of public and private funds are being spent to finance health workforce innovation projects, and that the activities of some of these projects exceed the limitations of state law. These projects may jeopardize the public safety and the careers of persons who are trained in them. It is the intent of the Legislature to establish the accountability of health workforce innovation projects to the requirements of the public health, safety, and welfare, and the career viability of persons trained in these programs. Further, it

is the intent of this legislation that existing healing arts licensure laws incorporate innovations developed in approved projects that are likely to improve the effectiveness of health care delivery systems.

SEC. 3. Section 128135 of the Health and Safety Code is amended to read:

128135. The office may designate experimental health workforce projects as approved projects where the projects are sponsored by community hospitals or clinics, nonprofit educational institutions, or government agencies engaged in health or education activities. Nothing in this section shall preclude approved projects from utilizing the offices of physicians, dentists, pharmacists, and other clinical settings as training sites.

SEC. 4. Section 128198 of the Health and Safety Code is amended to read:

128198. (a) (1) There is hereby established in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan Repayment Program.

(2) The program shall provide scholarships to pay for the educational expenses of pharmacy school students and repay qualifying educational loans of pharmacists who agree to participate in designated medically underserved areas as provided in this section.

(b) The Office of Statewide Health Planning and Development shall administer the California Pharmacist Scholarship and Loan Repayment Program utilizing the same general guidelines applicable to the federal National Health Service Corps Scholarship Program established pursuant to Section 254 *l* of Title 42 of the United States Code and the National Health Service Corps Loan Repayment Program established pursuant to Section 254 *l*-1 of Title 42 of the United States Code, except as follows:

(1) A pharmacist or pharmacy school student shall be eligible to participate in the program if he or she agrees to provide pharmacy services in a practice site located in areas of the state where unmet priority needs for primary care family physicians exist as determined by the Health Workforce Policy Commission.

(2) No matching funds shall be required from any entity in the practice site area.

(c) This section shall be implemented only to the extent that sufficient moneys are available in the California Pharmacist Scholarship and Loan Repayment Program Fund to administer the program.

SEC. 5. The heading of Chapter 4 (commencing with Section 128200) of Part 3 of Division 107 of the Health and Safety Code, as added by Section 360 of Chapter 1023 of the Statutes of 1996, is amended to read:

CHAPTER 4. HEALTH CARE WORKFORCE TRAINING PROGRAMS

SEC. 6. The heading of Article 1 (commencing with Section 128200) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, as added by Section 360 of Chapter 1023 of the Statutes of 1996, is amended to read:

Article 1. Song-Brown Health Care Workforce Training Act

SEC. 7. Section 128200 of the Health and Safety Code is amended to read:

128200. (a) This article shall be known and may be cited as the Song-Brown Health Care Workforce Training Act.

(b) The Legislature hereby finds and declares that physicians engaged in family practice are in very short supply in California. The current emphasis placed on specialization in medical education has resulted in a shortage of physicians trained to provide comprehensive primary health care to families. The Legislature hereby declares that it regards the furtherance of a greater supply of competent family physicians to be a public purpose of great importance and further declares the establishment of the program pursuant to this article to be a desirable, necessary and economical method of increasing the number of family physicians to provide needed medical services to the people of California. The Legislature further declares that it is to the benefit of the state to assist in increasing the number of competent family physicians graduated by colleges and universities of this state to provide primary health care services to families within the state.

The Legislature finds that the shortage of family physicians can be improved by the placing of a higher priority by public and private medical schools, hospitals, and other health care delivery systems in this state, on the recruitment and improved training of medical students and residents to meet the need for family physicians. To help accomplish this goal, each medical school in California is encouraged to organize a strong family practice program or department. It is the intent of the Legislature that the programs or departments be headed by a physician who possesses specialty certification in the field of family practice, and has broad clinical experience in the field of family practice.

The Legislature further finds that encouraging the training of primary care physician's assistants and primary care nurse practitioners will assist in making primary health care services more accessible to the citizenry, and will, in conjunction with the training of family physicians, lead to an improved health care delivery system in California.

Community hospitals in general and rural community hospitals in particular, as well as other health care delivery systems, are encouraged to develop family practice residencies in affiliation or association with accredited medical schools, to help meet the need for family physicians in geographical areas of the state with recognized family primary health care needs. Utilization of expanded resources beyond university-based teaching hospitals should be emphasized, including facilities in rural areas wherever possible.

The Legislature also finds and declares that nurses are in very short supply in California. The Legislature hereby declares that it regards the furtherance of a greater supply of nurses to be a public purpose of great importance and further declares the expansion of the program pursuant to this article to include nurses to be a desirable, necessary, and economical method of increasing the number of nurses to provide needed nursing services to the people of California.

It is the intent of the Legislature to provide for a program designed primarily to increase the number of students and residents receiving quality education and training in the specialty of family practice and as primary care physician's assistants, primary care nurse practitioners, and registered nurses and to maximize the delivery of primary care family physician services to specific areas of California where there is a recognized unmet priority need. This program is intended to be implemented through contracts with accredited medical schools, programs that train primary care physician's assistants, programs that train primary care nurse practitioners, programs that train registered nurses, hospitals, and other health care delivery systems based on per-student or per-resident capitation formulas. It is further intended by the Legislature that the programs will be professionally and administratively accountable so that the maximum cost-effectiveness will be achieved in meeting the professional training standards and criteria set forth in this article and Article 2 (commencing with Section 128250).

SEC. 8. Section 128260 of the Health and Safety Code is amended to read:

128260. As used in this article, unless the context otherwise requires, the following definitions shall apply:

(a) "Commission" means the California Healthcare Workforce Policy Commission.

(b) "Director" means the Director of Statewide Health Planning and Development.

(c) "Medically underserved designated shortage area" means any of the following:

(1) An area designated by the commission as a critical health workforce shortage area.

(2) A medically underserved area, as designated by the United States Department of Health and Human Services.

(3) A critical workforce shortage area, as defined by the United States Department of Health and Human Services.

(d) "Primary care physician" means a physician who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral for care by other specialists. A primary care physician shall be a board-certified or board-eligible general internist, general pediatrician, general obstetrician-gynecologist, or family physician.

SEC. 9. Section 128385 of the Health and Safety Code is amended to read:

128385. (a) There is hereby created the Registered Nurse Education Program within the Health Professions Education Foundation. Persons participating in this program shall be persons who agree in writing prior to graduation to serve in an eligible county health facility, an eligible state-operated health facility, a health workforce shortage area, or a California nursing school, as designated by the director of the office. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health workforce shortage areas, and master's or doctoral students agreeing to serve in a California nursing school may apply for scholarship or loan repayment. The Registered Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Registered Nurse Education Fund shall be used only for the purpose of promoting the education of registered nurses and related administrative costs. The Health Professions Education Foundation shall make recommendations to the director of the office concerning both of the following:

(1) A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility, or in a health workforce shortage area that would require a period of obligated professional service in the areas of California designated by the California Healthcare Workforce Policy Commission as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(2) Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(b) Applicants may be persons licensed as registered nurses, graduates of associate degree nursing programs prior to entering a program granting a baccalaureate of science degree in nursing, or students entering an entry-level master's degree program in registered nursing or other registered nurse master's or doctoral degree program approved by the Board of Registered Nursing. Priority shall be given to applicants who hold associate degrees in nursing.

(c) Registered nurses and students shall commit to teaching nursing in a California nursing school for five years in order to receive a scholarship or loan repayment for a master's or doctoral degree program.

(d) Not more than 5 percent of the funds available under the Registered Nurse Education Program shall be available for a pilot project designed to test whether it is possible to encourage articulation from associate degree nursing programs to baccalaureate of science degree nursing programs. Persons who otherwise meet the standards of subdivision (a) shall be eligible for educational loans when they are enrolled in associate degree nursing programs. If these persons complete a baccalaureate of science degree nursing program in California within five years of obtaining an associate degree in nursing and meet the standards of this article, these loans shall be completely forgiven.

(e) As used in this section, "eligible county health facility" means a county health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(f) As used in this section, "eligible state-operated health facility" means a state-operated health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

SEC. 10. Section 128485 of the Health and Safety Code is amended to read:

128485. There is hereby created the Vocational Nurse Education Program within the Health Professions Education Foundation. Persons participating in this program shall be persons who agree in writing prior to completion of vocational nursing school to serve in an eligible county health facility, an eligible state-operated health facility, or a health workforce shortage area, as designated by the director of the office. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health workforce shortage areas may apply for scholarship or loan repayment. The Vocational Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Vocational Nurse Education Fund shall be used only for the purpose of promoting the education of vocational nurses and related administrative costs. The

Health Professions Education Foundation shall make recommendations to the director of the office concerning both of the following:

(a) A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility, or in a health workforce shortage area that would require a period of obligated professional service in the areas of California designated by the Health Workforce Policy Commission as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(b) Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(c) A person who qualifies for admission to a vocational nursing program that is accredited by the board of Vocational Nursing and Psychiatric Technicians may apply for funding under the Vocational Nurse Education Program by establishing a contractual agreement in accordance with subdivision (a).

(d) A person who holds a current valid license as a vocational nurse who wishes to seek an associate of science degree in nursing from an accredited college may apply for funding under the Vocational Nurse Education Program by establishing a contractual agreement in accordance with subdivision (a) unless the person is able to qualify under subdivision (a) of Section 128385 under the Registered Nurse Education Program.

SEC. 11. Section 128730 of the Health and Safety Code is amended to read:

128730. (a) Effective January 1, 1986, the office shall be the single state agency designated to collect the following health facility or clinic data for use by all state agencies:

(1) That data required by the office pursuant to Section 127285.

(2) That data required in the Medi-Cal cost reports pursuant to Section 14170 of the Welfare and Institutions Code.

(3) Those data items formerly required by the California Health Facilities Commission that are listed in Sections 128735 and 128740. Information collected pursuant to subdivision (g) of Section 128735 and Sections 128736 and 128737 shall be made available to the State Department of Health Services. The department shall ensure that the patient's rights to confidentiality shall not be violated in any manner. The department shall comply with all applicable policies and requirements involving review and oversight by the State Committee for the Protection of Human Subjects.

(b) The office shall consolidate any and all of the reports listed under this section or Sections 128735 and 128740, to the extent feasible, to minimize the reporting burdens on hospitals. Provided, however, that the office shall neither add nor delete data items from the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or regulation or judicial decision.

SEC. 12. Section 128737 of the Health and Safety Code is amended to read:

128737. (a) Each general acute care hospital and freestanding ambulatory surgery clinic shall file an Ambulatory Surgery Data Record for each patient encounter during which at least one ambulatory surgery procedure is performed. The Ambulatory Surgery Data Record shall include all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Ethnicity.
(5) Principal language spoken.
(6) ZIP Code.
(7) Patient social security number, if it is contained in the patient's medical record.
(8) Service date.
(9) Principal diagnosis.
(10) Other diagnoses.
(11) Principal procedure.
(12) Other procedures.
(13) Principal external cause of injury, if known.
(14) Other external cause of injury, if known.
(15) Disposition of patient.
(16) Expected source of payment.
(17) Elements added pursuant to Section 128738.

(b) It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).

(d) Data reporting requirements established by the office shall be consistent with national standards as applicable.

(e) This section shall become operative on January 1, 2004.

SEC. 13. Section 128765 of the Health and Safety Code is amended to read:

128765. (a) The office, with the advice of the commission, shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the office, with the advice of the commission, may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on its Web site, with the exception of discharge and encounter data that shall be available for public inspection unless the office determines, pursuant to applicable law, that an individual patient's rights of confidentiality would be violated.

(b) The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the office's Internet Web site.

(c) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office, with the advice of the commission, shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. The summaries shall be posted on the office's Internet Web site. The commission shall approve the policies and procedures relative to the

manner of data disclosure to the public. The office, with the advice of the commission, may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to assure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director and the commission with an annual report on changes that can be made to improve the public's access to data.

SEC. 14. Section 128770 of the Health and Safety Code is amended to read:

128770. (a) Any health facility or freestanding ambulatory surgery clinic that does not file any report as required by this chapter with the office is liable for a civil penalty of one hundred dollars ($100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the office, with the advice of the commission.

(b) Any health facility that does not use an approved system of accounting pursuant to the provisions of this chapter for purposes of submitting financial and statistical reports as required by this chapter shall be liable for a civil penalty of not more than five thousand dollars ($5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the office. Assessment of a civil penalty may, at the request of any health facility or freestanding ambulatory surgery clinic, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money that is received by the office pursuant to this section shall be paid into the General Fund.

SEC. 15. Section 128775 of the Health and Safety Code is amended to read:

128775. (a) Any health facility or freestanding ambulatory surgery clinic affected by any determination made under this part by the office may petition the office for review of the decision. This petition shall be filed with the office within 15 business days, or within a greater time as the office, with the advice of the commission, may allow, and shall specifically describe the matters which are disputed by the petitioner.

(b) A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before an employee of the office, an administrative law judge employed by the Office of Administrative Hearings, or a committee of the commission chosen by the chairperson for this purpose. If held before an employee

of the office or a committee of the commission, the hearing shall be held in accordance with any procedures as the office, with the advice of the commission, shall prescribe. If held before an administrative law judge employed by the Office of Administrative Hearings, the hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The employee, administrative law judge, or committee shall prepare a recommended decision including findings of fact and conclusions of law and present it to the office for its adoption. The decision of the office shall be in writing and shall be final. The decision of the office shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

(c) Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the office shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

(d) The employee of the office, the administrative law judge employed by the Office of Administrative Hearings, the Office of Administrative Hearings, or the committee of the commission may issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) This section shall become operative on July 1, 1997.

CHAPTER 260

An act to amend Section 830.14 of the Penal Code, relating to transportation officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 830.14 of the Penal Code is amended to read:

830.14. (a) A local or regional transit agency or a joint powers agency operating rail service identified in an implementation program adopted pursuant to Article 10 (commencing with Section 130450) of Chapter 4 of Division 12 of the Public Utilities Code may authorize by

contract designated persons as conductors performing fare inspection duties who are employed by a railroad corporation that operates public rail commuter transit services for that agency to act as its agent in the enforcement of subdivisions (a) and (b) of Section 640 relating to the operation of the rail service if they complete the training requirement specified in this section.

(b) The governing board of the Altamont Commuter Express Authority, a joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the Alameda Congestion Management Agency, the Santa Clara County Transit District, and the San Joaquin Regional Rail Commission, may contract with designated persons to act as its agents in the enforcement of subdivisions (a) and (b) of Section 640 relating to the operation of a public transportation system if these persons complete the training requirement specified in this section.

(c) The governing board of the Peninsula Corridor Joint Powers Board, a joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the San Mateo County Transit District, the Santa Clara County Transit District, and the City and County of San Francisco, may appoint designated persons to act as its agents in the enforcement of subdivisions (a) and (b) of Section 640 relating to the operation of a public transportation system if these persons complete the training requirement specified in this section.

(d) The governing board of Foothill Transit, a joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the Cities of Arcadia, Azusa, Baldwin Park, Bradbury, Claremont, Covina, Diamond Bar, Duarte, El Monte, Glendora, Industry, Irwindale, La Habra Heights, La Puente, La Verne, Monrovia, Pomona, San Dimas, South El Monte, Temple City, Walnut, West Covina, and the County of Los Angeles, may resolve to contract with designated persons to act as its agents in the enforcement of subdivisions (a) and (b) of Section 640 relating to the operation of a public transportation system if these persons complete the training requirement specified in this section.

(e) Persons authorized pursuant to this section to enforce subdivisions (a) and (b) of Section 640 shall complete a specialized fare compliance course which shall be provided by the authorizing agency. This training course shall include, but not be limited to, the following topics:

(1) An overview of barrier-free fare inspection concepts.

(2) The scope and limitations of inspector authority.

(3) Familiarization with the elements of the infractions enumerated in subdivisions (a) and (b) of Section 640.

(4) Techniques for conducting fare checks, including inspection procedures, demeanor, and contacting violators.

(5) Citation issuance and court appearances.

(6) Fare media recognition.

(7) Handling argumentative violators and diffusing conflict.

(8) The mechanics of law enforcement support and interacting with law enforcement for effective incident resolution.

(f) Persons described in this section are public officers, not peace officers, have no authority to carry firearms or any other weapon while performing the duties authorized in this section, and may not exercise the powers of arrest of a peace officer while performing the duties authorized in this section. These persons may be authorized by the agencies specified in this section to issue citations involving infractions relating to the operation of the rail service specified in this section.

(g) Nothing in this section shall affect the retirement or disability benefits provided to employees described in this section or be in violation of any collective bargaining agreement between a labor organization and a railroad corporation.

(h) Notwithstanding any other provision of this section, the primary responsibility of a conductor of a commuter passenger train shall be functions related to safe train operation.

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

In order for the public to be properly protected and for the appropriate administration and operation of the Foothill Transit system, it is necessary for this act to take effect immediately.

CHAPTER 261

An act to amend Section 20812 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 20812 of the Public Contract Code is amended to read:

20812. (a) A district board may contract for special services. These contracts shall be with persons specially trained, experienced, expert, and competent to perform the special services. The special services shall be limited to the fields of accounting, administration, ambulance, architecture, custodial, economics, engineering, finance, insurance, labor relations, law, maintenance, mechanics, medicine, planning, science, technology, and other services which are incidental to the operation of the district.

(b) In the case of a district which has a final budget in excess of one million dollars ($1,000,000), the district shall follow the contracting and purchasing procedures which apply to the county government of its principal county or the procedures in subdivision (c).

(c) In the case of a district which has a final budget less than one million dollars ($1,000,000), the district shall follow the procedures of this subdivision.

(1) When the expenditure required for the service contract exceeds twenty-five thousand dollars ($25,000), it shall be contracted for and let to the lowest responsible bidder. If two or more bids are the same and the lowest, the district board may accept the one it chooses.

(2) The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, at least five days apart, in a newspaper of general circulation in the district, or if there is none, it shall be posted in at least three public places in the district. The notice shall distinctly state the service to be performed.

(3) The district board may reject any bids. If the district board rejects all bids, it may either readvertise or adopt a resolution, by two-thirds vote, declaring that the service can be performed more economically by the district's employees or obtained at a lower price in the open market. Upon adoption of the resolution, the district board may undertake the service contract without further complying with this section.

(4) If no bids are received, the district board may undertake the service contract without further complying with this section.

(5) In the case of an emergency, the district board shall respond to the emergency pursuant to Chapter 2.5 (commencing with Section 22050) if notice for bids to let contracts will not be given.

CHAPTER 262

An act to amend Sections 20209.5, 20209.7, and 20209.14 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 20209.5 of the Public Contract Code is amended to read:

20209.5. As used in this article, the following terms have the following meanings:

(a) "Best value" means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the transit district.

(b) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(c) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(d) "RFP" means request for proposal.

(e) "Transit operator" means any transit district, included transit district, municipal operator, included municipal operator, or transit development board, as defined in Section 99210 of the Public Utilities Code, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, or any joint powers authority formed to provide transit service.

SEC. 2. Section 20209.7 of the Public Contract Code is amended to read:

20209.7. Design-build projects shall progress in a three-step process, as follows:

(a) The transit operator shall prepare a set of documents setting forth the scope of the project. The documents shall include, but are not limited to, the size, type, and desired design character of the buildings, transit facilities, and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the transit operator's needs. The performance specifications and any plans shall be prepared by a design professional duly licensed or registered in California.

(b) Any architectural or engineering firm or individual retained by the transit operator to assist in the development criteria or preparation of the request for proposal (RFP) is not eligible to participate in the competition for the design-build entity.

(c) If the transit operator does not already have a labor compliance program, as defined in Section 1771.5 of the Labor Code, the transit operator shall establish and enforce a labor compliance program for the design-build contract containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate this labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement applies only to the design-build contract and does not apply to projects where the transit operator or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project, or to any other project of the transit operator that is not design-build.

(d) (1) Each RFP shall identify the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the contracting agency to inform interested parties of the contracting opportunity.

(2) Each RFP shall invite interested parties to submit competitive sealed proposals in the manner prescribed by the contracting agency.

(3) Each RFP shall include a section identifying and describing:

(A) All significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice-related factors.

(B) The methodology and rating or weighting process that will be used by the agency in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values.

(C) The relative importance or weight assigned to each of the factors identified in the RFP. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(D) If the contracting agency wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the RFP and shall publish separately or incorporate into the RFP applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(e) (1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if the violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations and the bidder complied with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code. In preparing the questionnaire, the director shall consult with the construction industry, transit operators, and other affected parties. This questionnaire shall require information relevant to the architecture or engineering firm that will be the lead on the design-build project. The questionnaire shall include, but is not limited to, all of the following:

(A) A listing of all the contractors that are part of the design-build entity.

(B) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(C) The licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the transit operator that the design-build entity has the capacity to complete the project.

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (P.L. 91-596), settled against any member of the design-build entity, and information concerning a contractor member's workers' compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found by an awarding body not to be a responsible bidder.

(G) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(H) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law, including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(I) Information concerning the bankruptcy or receivership of any member of the entity, and information concerning all legal claims, disputes, or lawsuits arising from any construction project of any member of the entity during the past three years, including information concerning any work completed by a surety.

(J) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members who will participate as subcontractors in the design-build contract.

(K) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five-year period immediately preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(L) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be liable for full performance under the design-build contract.

(2) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(f) The transit operator shall establish a procedure for final selection of the design-build entity. Selection shall be subject to the following conditions:

(1) In no case shall the transit operator award a contract to a design-build entity pursuant to this article for a capital maintenance or capacity-enhancing rail project unless that project exceeds twenty-five million dollars ($25,000,000) in cost.

(2) For nonrail transit projects that exceed two million five hundred thousand dollars ($2,500,000), the transit operator may award the project to the lowest responsible bidder or by using the best value method.

SEC. 3. Section 20209.14 of the Public Contract Code is amended to read:

20209.14. This article shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 4. This act shall only apply to transit projects as specified in Section 20209.13 of the Public Contract Code.

CHAPTER 263

An act to amend Section 4216.4 of the Government Code, relating to subsurface installations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 4216.4 of the Government Code is amended to read:

4216.4. (a) The excavator shall determine the exact location of subsurface installations in conflict with the excavation by excavating with handtools within the area of the approximate location of subsurface installations as determined by the field marking provided in accordance with Section 4216.3 before using any power-operated or power-driven excavating or boring equipment within the approximate location of the subsurface installation, except that power-operated or power-driven excavating or boring equipment may be used for the removal of any existing pavement if there are no subsurface installations contained in the pavement. If documented notice of the intent to use vacuum excavation devices, or power-operated or power-driven excavating or boring equipment, has been provided to the subsurface installation operator or operators and it is mutually agreeable with the operator or operators and the excavator, the excavator may utilize vacuum excavation devices, or power-operated or power-driven excavating or boring equipment within the approximate location of a subsurface installation and to any depth.

(b) If the exact location of the subsurface installation cannot be determined by hand excavating in accordance with subdivision (a), the

excavator shall request the operator to provide additional information to the excavator, to the extent that information is available to the operator, to enable the excavator to determine the exact location of the installation.

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 prevent potentially damaging stalls or stoppage of construction within the state, it is necessary that this act take effect immediately.

CHAPTER 264

An act to add Chapter 7.5 (commencing with Section 10700) to Part 7 of the Education Code, relating to adult education.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

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

(a) Existing law assigns responsibility for adult education in California to the high school and unified school districts, except where, by mutual agreement, responsibility is assigned to or shared with community college districts.

(b) The adult education system plays a critical role in providing adult learners with the necessary education and skills to earn a high school diploma or its equivalent, obtain jobs, and become self-sufficient, active, and productive members of society.

(c) Adult education is essential to the needs of society in an era of rapid technological, economic, and social change, and the adult education system must meet the needs of a growing and knowledge-based workforce and economy.

(d) There is a substantial need for adult education service. The state's large immigrant and English-language learner population, the large number of persons with less than a high school education, and the growing demand for a more skilled workforce have generated an increased need for access to high-quality adult education and literacy programs.

(e) The current adult education and community college noncredit data systems function independently and are not coordinated, making it

difficult to assess the extent to which these programs are meeting the critical workforce and social needs of the state. A more coordinated and unified data set would benefit the state as it grapples with growing adult education needs and limited resources.

SEC. 2. Chapter 7.5 (commencing with Section 10700) is added to Part 7 of the Education Code, to read:

CHAPTER 7.5. JOINT DATA SYSTEMS

10700. It is the intent of the Legislature to enact legislation that will develop a coordinated adult education data system that accomplishes all of the following:

(a) Uses standardized procedures to collect data.

(b) Complies with relevant federal statutes in elementary, secondary, and postsecondary education.

(c) Makes efficient use of existing data systems in the California Community College system and the department.

(d) Is based upon individual pupil and student records that, preferably, can be linked through the use of a common student identifier.

(e) Contains a common data dictionary that can be used to provide valid, comparable data regarding enrollment, demographics, outcomes, and other educational or economic policy issues.

(f) Complies with all relevant state and federal privacy laws and regulations.

10701. The Chancellor of the California Community Colleges and the superintendent, using existing resources, shall convene a working group of adult education and data experts to review the separate, existing adult education and noncredit instruction data systems, and report to the Legislature and the Governor by July 1, 2007, on the feasibility, design, and cost of a common data set in adult education.

CHAPTER 265

An act to add Section 701.6 to the Public Resources Code, relating to the Department of Forestry and Fire Protection.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 701.6 is added to the Public Resources Code, to read:

701.6. (a) Notwithstanding any other provision of law, on and after January 1, 2007, the Department of Forestry and Fire Protection may be referred to, where appropriate and as determined by the director, as CAL-FIRE.

(b) No existing supplies, forms, insignias, signs, or logos shall be destroyed or changed as a result of the authorization to use CAL-FIRE where appropriate to refer to the department, and they shall continue to be used until exhausted or unserviceable.

CHAPTER 266

An act to add Section 1281.12 to the Code of Civil Procedure, relating to arbitration.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 1281.12 is added to the Code of Civil Procedure, immediately following Section 1281.1, to read:

1281.12. If an arbitration agreement requires that arbitration of a controversy be demanded or initiated by a party to the arbitration agreement within a period of time, the commencement of a civil action by that party based upon that controversy, within that period of time, shall toll the applicable time limitations contained in the arbitration agreement with respect to that controversy, from the date the civil action is commenced until 30 days after a final determination by the court that the party is required to arbitrate the controversy, or 30 days after the final termination of the civil action that was commenced and initiated the tolling, whichever date occurs first.

CHAPTER 267

An act to amend Section 830.7 of the Penal Code, relating to illegal dumping enforcement officers.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

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

SECTION 1. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for independent institutions of higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, that are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.

(h) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, "investigator" means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed "peace officers" for purposes of Sections 241 and 243.

(i) Illegal dumping enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping, or littering, and authorized by a memorandum of understanding with, as applicable, the sheriff or chief of police within whose jurisdiction the person is employed, permitting the exercise of that authority. An "illegal dumping enforcement officer" is defined, for purposes of this section, as a person regularly employed by a city, county, or city and county, whose duties include illegal dumping enforcement and is designated by local ordinance as a public officer. No person may be appointed as an illegal dumping enforcement officer if that person is disqualified pursuant to the criteria set forth in Section 1029 of the Government Code.

SEC. 2. Nothing in this act shall be construed to award illegal dumping officers the retirement benefits of a peace officer.

SEC. 3. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for independent institutions of higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, that are owned

and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.

(h) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, "investigator" means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed "peace officers" for purposes of Sections 241 and 243.

(i) Persons regularly employed by any department of the City of Los Angeles who are designated as security officers and authorized by local ordinance to enforce laws related to the preservation of peace in or about the properties owned, controlled, operated, or administered by any department of the City of Los Angeles and authorized by a memorandum of understanding with the Chief of Police of the City of Los Angeles permitting the exercise of that authority. Security officers authorized pursuant to this subdivision shall not be deemed peace officers for purposes of Sections 241 and 243.

(j) Illegal dumping enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping, or littering, and authorized by a memorandum of understanding with, as applicable, the sheriff or chief of police within whose jurisdiction the person is employed, permitting the exercise of that authority. An "illegal dumping enforcement officer" is defined, for purposes of this section, as a person regularly employed by a city, county, or city and county, whose duties include illegal dumping enforcement and is designated by local ordinance as a public officer. No person may be appointed as an illegal dumping enforcement officer if that person is disqualified pursuant to the criteria set forth in Section 1029 of the Government Code.

SEC. 4. Section 3 of this bill incorporates amendments to Section 830.7 of the Penal Code proposed by both this bill and AB 1980. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 830.7 of the Penal Code, and (3) this bill is enacted after AB 1980, in which case Section 1 of this bill shall not become operative.

CHAPTER 268

An act to amend Section 18986.62 of the Welfare and Institutions Code, relating to health and human services.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 18986.62 of the Welfare and Institutions Code is amended to read:

18986.62. This chapter shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 269

An act to add and repeal Section 17463.8 of the Education Code, relating to surplus schools property.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

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

SECTION 1. Section 17463.8 is added to the Education Code, to read:

17463.8. (a) Notwithstanding any other provision of law, the Oak Grove Elementary School District may sell surplus real property, together with any personal property located thereon, purchased entirely with local funds, and may deposit the proceeds thereof into the general fund of the school district or county office of education, and may use the proceeds from the sale for any one-time general fund purpose. If the purchase of the property was made using the proceeds of a local general obligation bond act or revenue derived from developer fees, the amount of the proceeds of the transaction that may be deposited into the general fund of the school district or county office of education may not exceed the percentage computed by the difference between the purchase price of the property and the proceeds from the transaction, divided by the amount of the proceeds of the transaction. For the purposes of this section, "proceeds of the transaction" means either of the following, as appropriate:

(1) The amount realized from the sale of property after reasonable expenses related to the sale.

(2) For any transaction that does not result in a lump-sum payment of the proceeds of the transaction, the proceeds of the transaction shall be calculated as the net present value of the future cashflow generated by the transaction.

(b) The State Allocation Board shall reduce the amount of hardship assistance awarded pursuant to Article 8 (commencing with Section 17075.10) to a school district that exercises the authority granted pursuant to this section by an amount equal to the amount of the proceeds of the sale of surplus real property used for a one-time expenditure of the school district pursuant to this section.

(c) If a school district exercises the authority granted pursuant to this section, the school district is ineligible for hardship funding from the State School Deferred Maintenance Fund under Section 17587 for five years after the date of sale.

(d) Before a school district exercises the authority granted pursuant to this section, the governing board of the school district shall first certify all of the following to the State Allocation Board:

(1) The school district has no major deferred maintenance requirements not covered by existing capital outlay resources.

(2) The sale of real property pursuant to this section does not violate any provisions of a local general obligation bond act.

(3) The real property is not suitable to meet any projected school construction need for the next 10 years.

(e) Before a school district exercises the authority granted pursuant to this section, the governing board of the school district shall at a regularly scheduled meeting present a plan for expending one-time resources pursuant to this section. The plan shall identify the source and use of the funds and describe the reasons why the expenditure will not result in ongoing fiscal obligations for the school district.

(f) For purposes of this section, "one-time general fund purpose" means a nonrecurring cost payable from the general or special funds of a local educational agency, not including ongoing expenditures for the purposes of funding employee salaries and benefits or ongoing and sustained program operations and services.

(g) This section shall become inoperative on January 1, 2010, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique financial circumstances of the Oak Grove Elementary School District.

CHAPTER 270

An act to amend Section 14166.75 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 14166.75 of the Welfare and Institutions Code is amended to read:

14166.75. (a) For services provided during the 2005–06 and 2006–07 project years, the amount allocated to designated public hospitals pursuant to subparagraph (A) of paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (b) of Section 14166.20 shall be allocated, in

accordance with this section, among the designated public hospitals and paid as direct grants, which shall not constitute Medi-Cal payments.

(b) The baseline funding amount, as determined under Section 14166.5, for San Mateo Medical Center shall be increased by eight million dollars ($8,000,000) for purposes of this section.

(c) The following payments shall be made from the amount identified in subdivision (a), in addition to any other payments due to the University of California hospitals and health system and County of Los Angeles hospitals under this section:

(1) The lower of eleven million dollars ($11,000,000) or 3.67 percent of the amount identified in subdivision (a) to the University of California hospitals and health system.

(2) In the event that the one hundred eighty million dollars ($180,000,000) identified in paragraph 41 of the Special Terms and Conditions for the demonstration project is available in the safety net care pool for the project year, the lower of twenty-three million ($23,000,000) or 7.67 percent of the amount identified in subdivision (a) to the County of Los Angeles, Department of Health Services, hospitals. If an amount less than the one hundred eighty million dollars ($180,000,000) is available during the project year, the amount determined under this paragraph shall be reduced proportionately.

(d) The amount identified in subdivision (a), as reduced by the amounts identified in subdivision (c), shall be distributed among the designated public hospitals as follows:

(1) Designated public hospitals that are donor hospitals, and their associated donated certified public expenditures, shall be identified as follows:

(A) An initial pro rata allocation of the amount subject to this subdivision shall be made to each designated public hospital, based upon the hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b). This initial allocation shall be used for purposes of the calculations under subparagraph (C) and paragraph (3).

(B) The federal financial participation amount arising from the certified public expenditures of each designated public hospital, including the expenditures of the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, that were claimed by the department from the federal disproportionate share hospital allotment pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9, and from the safety net care pool funds pursuant to paragraph (3) of subdivision (a) of Section 14166.9, shall be determined.

(C) The amount of federal financial participation received by each designated public hospital, and by the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, based on certified public expenditures from the federal disproportionate share hospital allotment pursuant to paragraph (1) of subdivision (b) of Section 14166.6, and from the safety net care pool payments pursuant to subdivision (a) of Section 14166.7 shall be identified. The resulting amount shall be increased by amounts distributed to the hospital pursuant to subdivision (c) of this section, paragraph (1) of subdivision (b) of Section 14166.20, and the initial allocation determined for the hospitals in subparagraph (A).

(D) If the amount in subparagraph (B) is greater than the amount determined in subparagraph (C), the hospital is a donor hospital, and the difference between the two amounts is deemed to be that donor hospital's associated donated certified public expenditures amount.

(2) Seventy percent of the total amount subject to this subdivision shall be allocated pro rata among the designated public hospitals based upon each hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b).

(3) The lesser of the remaining 30 percent of the total amount subject to this subdivision or the total amounts of donated certified public expenditures for all donor hospitals, shall be distributed pro rata among the donor hospitals based upon the donated certified public expenditures amount determined for each donor hospital. Any amounts not distributed pursuant to this paragraph shall be distributed in the same manner as set forth in paragraph (2).

(e) The department shall consult with designated public hospital representatives regarding the appropriate distribution of stabilization funding before stabilization funds are allocated and paid to hospitals. No later than 30 days after this consultation, the department shall issue a final allocation of stabilization funding under this section that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

SEC. 1.5. Section 14166.75 of the Welfare and Institutions Code is amended to read:

14166.75. (a) For services provided during the 2005–06 and 2006–07 project years, the amount allocated to designated public hospitals pursuant to subparagraph (A) of paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (b) of Section 14166.20 shall be allocated, in accordance with this section, among the designated public hospitals and paid as direct grants, which shall not constitute Medi-Cal payments.

(b) The baseline funding amount, as determined under Section 14166.5, for San Mateo Medical Center shall be increased by eight million dollars ($8,000,000) for purposes of this section.

(c) The following payments shall be made from the amount identified in subdivision (a), in addition to any other payments due to the University of California hospitals and health system and County of Los Angeles hospitals under this section:

(1) The lower of eleven million dollars ($11,000,000) or 3.67 percent of the amount identified in subdivision (a) to the University of California hospitals and health system.

(2) In the event that the one hundred eighty million dollars ($180,000,000) identified in paragraph 41 of the Special Terms and Conditions for the demonstration project is available in the safety net care pool for the project year, the lower of twenty-three million ($23,000,000) or 7.67 percent of the amount identified in subdivision (a) to the County of Los Angeles, Department of Health Services, hospitals. If an amount less than the one hundred eighty million dollars ($180,000,000) is available during the project year, the amount determined under this paragraph shall be reduced proportionately.

(d) The amount identified in subdivision (a), as reduced by the amounts identified in subdivision (c), shall be distributed among the designated public hospitals as follows:

(1) Designated public hospitals that are donor hospitals, and their associated donated certified public expenditures, shall be identified as follows:

(A) An initial pro rata allocation of the amount subject to this subdivision shall be made to each designated public hospital, based upon the hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b). This initial allocation shall be used for purposes of the calculations under subparagraph (C) and paragraph (3).

(B) The federal financial participation amount arising from the certified public expenditures of each designated public hospital, including the expenditures of the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, that were claimed by the department from the federal disproportionate share hospital allotment pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9, and from the safety net care pool funds pursuant to paragraph (3) of subdivision (a) of Section 14166.9, shall be determined.

(C) The amount of federal financial participation received by each designated public hospital, and by the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, based on

certified public expenditures from the federal disproportionate share hospital allotment pursuant to paragraph (1) of subdivision (b) of Section 14166.6, and from the safety net care pool payments pursuant to subdivision (a) of Section 14166.7 shall be identified. With respect to this identification, if a payment adjustment for a hospital has been made pursuant to paragraph (2) of subdivision (f) of Section 14166.6, or paragraph (2) of subdivision (b) of Section 14166.7, the amount of federal financial participation received by the hospital based on certified public expenditures shall be determined as though no such payment adjustment had been made. The resulting amount shall be increased by amounts distributed to the hospital pursuant to subdivision (c) of this section, paragraph (1) of subdivision (b) of Section 14166.20, and the initial allocation determined for the hospitals in subparagraph (A).

(D) If the amount in subparagraph (B) is greater than the amount determined in subparagraph (C), the hospital is a donor hospital, and the difference between the two amounts is deemed to be that donor hospital's associated donated certified public expenditures amount.

(2) Seventy percent of the total amount subject to this subdivision shall be allocated pro rata among the designated public hospitals based upon each hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b).

(3) The lesser of the remaining 30 percent of the total amount subject to this subdivision or the total amounts of donated certified public expenditures for all donor hospitals, shall be distributed pro rata among the donor hospitals based upon the donated certified public expenditures amount determined for each donor hospital. Any amounts not distributed pursuant to this paragraph shall be distributed in the same manner as set forth in paragraph (2).

(e) The department shall consult with designated public hospital representatives regarding the appropriate distribution of stabilization funding before stabilization funds are allocated and paid to hospitals. No later than 30 days after this consultation, the department shall issue a final allocation of stabilization funding under this section that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 14166.75 of the Welfare and Institutions Code proposed by this bill and SB 1520. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 14166.75 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1520, in which case Section 14166.75 of the Welfare and Institutions Code, as amended by SB 1520, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this

bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 271

An act to amend Section 830.7 of the Penal Code, relating to powers of arrest.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for independent institutions of higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, that are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as

applicable, the sheriff, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.

(h) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, "investigator" means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed "peace officers" for purposes of Sections 241 and 243.

(i) Persons regularly employed by any department of the City of Los Angeles who are designated as security officers and authorized by local ordinance to enforce laws related to the preservation of peace in or about the properties owned, controlled, operated, or administered by any department of the City of Los Angeles and authorized by a memorandum of understanding with the Chief of Police of the City of Los Angeles permitting the exercise of that authority. Security officers authorized pursuant to this subdivision shall not be deemed peace officers for purposes of Sections 241 and 243.

SEC. 2. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for independent institutions of higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority,

with the sheriff or the chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, that are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.

(h) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, "investigator" means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed "peace officers" for purposes of Sections 241 and 243.

(i) Persons regularly employed by any department of the City of Los Angeles who are designated as security officers and authorized by local ordinance to enforce laws related to the preservation of peace in or about the properties owned, controlled, operated, or administered by any department of the City of Los Angeles and authorized by a memorandum

of understanding with the Chief of Police of the City of Los Angeles permitting the exercise of that authority. Security officers authorized pursuant to this subdivision shall not be deemed peace officers for purposes of Sections 241 and 243.

(j) Illegal dumping enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping, or littering, and authorized by a memorandum of understanding with, as applicable, the sheriff or chief of police within whose jurisdiction the person is employed, permitting the exercise of that authority. An "illegal dumping enforcement officer" is defined, for purposes of this section, as a person regularly employed by a city, county, or city and county, whose duties include illegal dumping enforcement and is designated by local ordinance as a public officer. No person may be appointed as an illegal dumping enforcement officer if that person is disqualified pursuant to the criteria set forth in Section 1029 of the Government Code.

SEC. 3. Section 2 of this bill incorporates amendments to Section 830.7 of the Penal Code proposed by both this bill and AB 1688. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 830.7 of the Penal Code, and (3) this bill is enacted after AB 1688, in which case Section 1 of this bill shall not become operative.

CHAPTER 272

An act to amend Sections 102022, 102023, 102055, 102100.1, 102100.3, 102100.7, 102100.8, 102100.9, 102105, 102106, 102122, 102141, 102205, 102206, 102265, 102311, 102351, 102501, 102509, and 102510 of, to add Sections 102100.10 and 102105.1 to, to repeal Section 102024 of, and to repeal and add Sections 102025, 102026, 102027, 102028, 102100.4, 102100.5, and 102100.6 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 102022 of the Public Utilities Code is amended to read:

102022. "Sacramento Area Council of Governments" means that agency or any successor thereto.

SEC. 2. Section 102023 of the Public Utilities Code is amended to read:

102023. "Tax or financial support" includes funds made available pursuant to the "Mills-Alquist-Deddeh Act" (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10), which is also known as the Transportation Development Act, or any successor to that act.

SEC. 3. Section 102024 of the Public Utilities Code is repealed.

SEC. 4. Section 102025 of the Public Utilities Code is repealed.

SEC. 5. Section 102025 is added to the Public Utilities Code, to read:

102025. "Member entity" means a city or county that is annexed to the district pursuant to Section 102051, 102052, or 102055. "Member entities" means all those cities and counties.

SEC. 6. Section 102026 of the Public Utilities Code is repealed.

SEC. 7. Section 102026 is added to the Public Utilities Code, to read:

102026. "Participating entity" means a city or county that has entered into an agreement with the district pursuant to subdivision (b) of Section 102100.3, but only during the period in which the agreement is in effect. "Participating entities" means all those cities and counties.

SEC. 8. Section 102027 of the Public Utilities Code is repealed.

SEC. 9. Section 102027 is added to the Public Utilities Code, to read:

102027. "Voting entity" means a member entity or a participating entity. "Voting entities" means all member entities and participating entities.

SEC. 10. Section 102028 of the Public Utilities Code is repealed.

SEC. 11. Section 102028 is added to the Public Utilities Code, to read:

102028. "Transportation planning agency" shall have the meaning provided in Section 99214.

SEC. 12. Section 102055 of the Public Utilities Code is amended to read:

102055. Any city or county may annex to and become a part of the district upon approval by the board of directors following (1) written request by that city or county to the district for that annexation, and (2) approval of that annexation by the Sacramento Area Council of Governments. Approval of annexation by the board shall be made by adoption of a resolution to that effect.

SEC. 13. Section 102100.1 of the Public Utilities Code is amended to read:

102100.1. (a) Except as otherwise provided, the government of the district shall be vested in a board of directors. The number of members on the board shall be not less than the number of voting entities.

(b) Each appointee to the board shall serve a four-year term, unless earlier removed.

SEC. 14. Section 102100.3 of the Public Utilities Code is amended to read:

102100.3. The number of members of the board of directors shall be increased as follows:

(a) Each member entity shall be entitled to make one appointment to the board.

(b) A city or county that is not annexed to the district may become a participating entity that is entitled to make at least one appointment to the board if the participating entity enters into an agreement with the district that provides for all of the following:

(1) The participating entity agrees to pay its proportionate share of the district's cost to provide rail or other districtwide transit services.

(2) The district agrees to maintain a specified level of rail or other districtwide transit services.

(3) The district is not obligated to provide transit services to any particular location or along any particular route.

(c) A voting entity shall be entitled to make an additional appointment to the board under the circumstances set forth in paragraph (6) of subdivision (d) of Section 102105.1.

SEC. 15. Section 102100.4 of the Public Utilities Code is repealed.

SEC. 16. Section 102100.4 is added to the Public Utilities Code, to read:

102100.4. The appointing authority of a participating entity under subdivisions (b) and (c) of Section 102100.3, and the term of its appointee to the board, shall terminate upon termination or cancellation of the agreement provided for in subdivision (b) of Section 102100.3, and that agreement shall automatically terminate upon the effective date of the entity's annexation to the district pursuant to Section 102051 or 102055.

SEC. 17. Section 102100.5 of the Public Utilities Code is repealed.

SEC. 18. Section 102100.5 is added to the Public Utilities Code, to read:

102100.5. After initial formation of the district, each voting entity shall have the right to appoint fewer members than it is entitled to appoint under Sections 102100.2 and 102100.3, provided that each voting entity shall appoint at least one member. Each voting entity shall determine, effective July 1 of each year, how many members it will appoint for the upcoming fiscal year. The legislative body of each voting entity shall provide written notification to the secretary of the board not more than 60 days and not less than 15 days prior to July 1 of the number of appointments it will make for the upcoming fiscal year beginning July 1. Unless and until that notification is provided, the number of appointments made during the prior year shall govern.

SEC. 19. Section 102100.6 of the Public Utilities Code is repealed.

SEC. 20. Section 102100.6 is added to the Public Utilities Code, to read:

102100.6. An action by the board shall not be void or voidable under either of the following circumstances:

(a) If it is determined, subsequent to an action in which a member representing a participating entity casts a vote, that the agreement for that participating entity did not comply with subdivision (b) of Section 102100.3.

(b) Because of any mathematical or clerical error in the information used to calculate, or because of the calculation of, the apportionment referred to in paragraph (5), (8), or (9) of subdivision (d) of Section 102105.1.

SEC. 21. Section 102100.7 of the Public Utilities Code is amended to read:

102100.7. The appointments to the board may be changed in the following manner:

Not more often than every two years, the voting entities may, by agreement, apportion the appointments to the board among them in the approximate ratio that the district provides transit service, as determined by the gross cost of the service without regard to income or revenues of the district, within their respective boundaries.

SEC. 22. Section 102100.8 of the Public Utilities Code is amended to read:

102100.8. Execution of the agreement provided in subdivision (b) of Section 102100.3 by the district and the City of Elk Grove shall be a complete defense in any action or proceeding of any kind to enforce or compel compliance with Resolution Number 99-1044 adopted by the Sacramento County Board of Supervisors or Resolution Numbers LAFC 1205, LAFC 1206, LAFC 1207, or LAFC 1208, adopted by the Sacramento Local Agency Formation Commission, to the extent the enforcement action is related to the enforcement of the Mitigation Monitoring Reporting Program Mitigation Measure Number 2 pertaining to the district.

SEC. 23. Section 102100.9 of the Public Utilities Code is amended to read:

102100.9. For purposes of paragraph (1) of subdivision (b) of Section 102100.3, the City of Elk Grove's proportionate share shall be determined in the manner provided in Section 4B(2) of the First Amendment to Interim Agreement for Elk Grove Bus Service, dated March 17, 2004, between the district and the City of Elk Grove.

SEC. 24. Section 102100.10 is added to the Public Utilities Code, to read:

102100.10. Each voting entity appointing members to the board in accordance with Section 102100.2 or 102100.3 may also select, in the same manner as the primary member or members, one or more alternates, as the case may be, to serve on the board when the primary member or members are not available. Each alternate shall be appointed to serve for a specific member. The alternate shall be subject to the same restrictions and shall have the same powers, when serving on the board, as the primary member, including assumption of the seniority of the primary member for purposes of paragraph (7) of subdivision (d) of Section 102105.1. The legislative body of any voting entity appointing an alternate shall provide written notification to the secretary of the board of each appointment of an alternate in order for the appointment to be effective.

SEC. 25. Section 102105 of the Public Utilities Code is amended to read:

102105. The board shall establish rules for its proceedings. The acts of the board shall be expressed by motion, resolution, or ordinance. All meetings of the board shall be conducted in the manner prescribed by the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 26. Section 102105.1 is added to the Public Utilities Code, to read:

102105.1. In acting on any item, the following weighted voting procedure shall be applied:

(a) There shall be a total of 100 votes.

(b) The presence of members eligible to cast a majority of the 100 votes shall constitute a quorum for the transaction of business.

(c) Except as otherwise provided in this section, and notwithstanding any other provision of law, all official acts of the board shall require the affirmative vote of members casting a majority of the 100 votes. Any statute, including this part, that requires a vote of the board shall be interpreted to require a tally of the votes, rather than a tally of the members of the board. A statute requiring the affirmative vote of the majority or a greater number of members of the board, including, but not limited to, Section 1245.240 of the Code of Civil Procedure, shall be interpreted as requiring a tally of the votes cast by members, rather than a tally of members.

(d) Each board member shall have the number of votes determined by the following formula; however, each voting entity represented on the board shall have at least one vote, and providing that there shall be no fractional votes:

(1) Each member entity is entitled to five votes as a membership incentive; however, the total number of incentive votes shall not exceed

30. If the number of member entities exceeds six, the 30 incentive votes shall be divided equally among the member entities.

(2) The remaining votes shall be divided among all voting entities in proportion to each entity's financial contribution to the district. The calculation of each voting entity's financial contribution shall include all of the following:

(A) Funds allocated to the district pursuant to the Mills-Alquist-Deddeh Act, also known as the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10), or any successor thereto, as computed by the applicable transportation planning agency for the voting entity.

(B) Funds provided to the district by the voting entity pursuant to an agreement of the type described in subdivision (b) of Section 102100.3.

(C) Other local funds made available to the district by the voting entity for the operation of public transit service.

(D) The federal formula grant funds attributable to the voting entity shall be determined by multiplying the amount described in paragraph (8) of subdivision (b) of Section 102205 by the voting entity's proportionate share of the total population of all voting entities, which shall be determined by using the population statistics described in paragraph (10) of subdivision (b) of Section 102205.

(E) Any adjustment expressly provided for in an agreement entered into between the district and any voting entity whereby the district receives or disburses any of the funds described in subparagraphs (A) to (D), inclusive, including, but not limited to, fund exchange or fund swap agreements.

(3) The total number of votes for each voting entity shall be the sum of the votes allocated in paragraphs (1) and (2).

(4) If the division set forth in paragraphs (1) to (3), inclusive, results in fractional votes, the number of votes allocated shall be rounded in the following manner:

(A) Each fractional vote that is 0.6 or greater shall be rounded up to the nearest whole number, and each fractional vote that is less than 0.6 shall be rounded down to the nearest whole number.

(B) If the sum total of the votes so rounded is greater than 100, the excess vote or votes shall be taken one each from the voting entity or entities with the greatest number of total votes, in descending order of the number of votes, until the sum total is 100. If two or more voting entities have the same number of votes, the vote reduction among those entities shall be done by lot.

(C) If the sum total of the votes so rounded is less than 100, one vote shall be added to the total of the voting entity or entities with the greatest number of total votes, in descending order of the number of votes, until

the sum total is 100. If two or more voting entities have the same number of votes, the extra votes shall be allocated by lot among those entities.

(5) The determination of financial contribution and the apportionment of votes shall be approved by the board at the board meeting at which the budget is adopted. The new voting apportionment shall be effective on July 1 of each year or as soon thereafter as the budget is adopted.

(6) At the time the apportionment is approved, the following calculation shall be done for each voting entity: the total number of votes allocated to the voting entity shall be divided by the total number of appointments the voting entity is entitled to make under Sections 102100.2 and 102100.3, regardless of whether those appointments have been made. If the result is greater than 15 votes per appointment, the voting entity shall be entitled to appoint an additional member to the board, effective July 1. Notwithstanding Section 102100.5, the legislative body of the voting entity making its appointment under this provision shall give written notification to the secretary of the board within 30 days of approval of the allocation. A member so appointed shall be subject to the same restrictions and shall have the same powers, when serving on the board, as any other member.

(7) For any voting entity that has appointed more than one member to the board, the total votes allocated to that voting entity shall be divided equally among the board members or alternates representing that entity who are present and voting. Where an equal division would result in fractional votes, the votes shall be divided to the nearest whole number among all members representing the voting entity who are present and voting, with the remaining votes being allocated, one vote each, to the members representing the voting entity in order of seniority, as measured by years of consecutive service on the board. If two or more members have served for the same length of time, the extra vote or votes shall be allocated between those members by lot.

(8) If a city or county becomes a voting entity or ceases to be a voting entity after the annual allocation called for in this subdivision has taken place, the board shall approve a new allocation, applying the financial contribution data used for the most recent allocation and considering what the new voting entity would have contributed, had it been part of the district when the preceding allocation took place. If necessary, the financial contribution of a newly incorporated entity may be estimated using population figures from the applicable local agency formation commission.

(9) If, during the course of the fiscal year, the financial data used to calculate the financial contribution of any voting entity differs by more than 10 percent from the amount that will actually be provided during the fiscal year by that entity, the board may call for a new allocation to

be conducted and any allocation so called for shall be approved by the board. The allocation shall proceed in the manner described in paragraphs (1) to (4), inclusive, but the calculation in paragraph (2) shall be done with reference to the financial contribution actually provided to the district during the fiscal year (except as otherwise provided in paragraph (8)), to the extent that contribution is known.

SEC. 27. Section 102106 of the Public Utilities Code is amended to read:

102106. Each member of the board shall receive the sum of one hundred dollars ($100) for each attendance at up to four noticed meetings of the board per month, and shall be allowed actual necessary traveling expenses incurred in the discharge of the member's duties.

SEC. 28. Section 102122 of the Public Utilities Code is amended to read:

102122. (a) The board of directors may adopt ordinances that do any of the following:

(1) Prohibit persons from knowingly giving false identification to a district employee engaged in the enforcement of district ordinances or state laws, or otherwise obstructing the issuance of a citation for violation of district ordinances or state law.

(2) Prohibit unauthorized operation of, interference with, entry into, climbing upon, attaching to, or loitering on or in transit facilities or other transit property.

(3) Prohibit the removal, displacement, injury, destruction, or obstruction of any part of any track, switch, turnout, bridge, culvert, or any other district structure or fixture.

(4) Specify conditions under which a passenger may board a district vehicle with a bicycle and where the bicycle may be stowed.

(b) The board may provide that a violation of any ordinance adopted pursuant to subdivision (a) is an infraction punishable by a fine not exceeding seventy-five dollars ($75), and that a violation by a person after the second conviction is punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days which do not conflict with the violator's hours of school attendance or employment.

(c) The board may designate persons regularly employed by the district as inspectors or supervisors whose duties shall include enforcement of district ordinances adopted under subdivision (a), Sections 640 and 640.5 of the Penal Code, and Section 22656 of the Vehicle Code. The designated persons shall have the authority set forth in Section 836.5 of the Penal Code.

(d) This section does not prohibit any person from engaging in activities that are protected under the laws of the United States or of

California, including, but not limited to, picketing, demonstrating, or distributing handbills.

SEC. 29. Section 102141 of the Public Utilities Code is amended to read:

102141. The commission shall be composed of three persons appointed by the legislative body of each voting entity. At least one of the three persons appointed by each voting entity shall be a sitting member of the voting entity's legislative body. Persons appointed to the commission shall serve at the pleasure of their appointing body.

SEC. 30. Section 102205 of the Public Utilities Code is amended to read:

102205. (a) The district shall annually submit its tentative or proposed budget to the legislative body of each voting entity, within the time and in the manner required in this section.

(b) The tentative or proposed budget and the final adopted budget shall, at a minimum, include the following information for the applicable fiscal year:

(1) The projected cost of service.

(2) The projected revenue from fares.

(3) The Transportation Development Act allocation for each member entity that is reserved for the district for operating purposes, as set forth in the finding of apportionment by the applicable transportation planning agency.

(4) The projected revenue from any contract of the type described in subdivision (b) of Section 102100.3.

(5) The projected revenue from any other local funds made available to the district by a voting entity for the operation of public transit service.

(6) The amount of the federal formula grant funds that was available and eligible for use during the prior fiscal year for operating purposes within the Sacramento urbanized area, including funds for cities and counties that are not represented on the board.

(7) The amount of the federal formula grant funds described in paragraph (6) that was allocated to entities other than the district.

(8) The amount obtained by subtracting the amount described in paragraph (7) from the amount described in paragraph (6), which amount represents the federal formula grant

funds that were available and eligible for use by the district for operating purposes during the prior fiscal year.

(9) A projection of the revenue from any other source that will be available to the district for operating purposes during the fiscal year.

(10) The population of each voting entity, as measured by the population statistics used by the applicable transportation planning agency

to allocate Transportation Development Act funds for the same fiscal year for which the budget is adopted.

(c) The tentative or proposed budget shall be submitted to the legislative body of each voting entity not less than 60 days prior to its adoption by the board. It shall be submitted for review and comment. The board may adopt the budget after submission to the legislative body of each voting entity, but shall consider any comments made by those legislative bodies on the budget.

(d) Concurrent with adoption of the budget, the board shall make an affirmative finding that the proposed level of service, reflected in the statement of proposed operation and level of service, to be rendered in any voting entity, is commensurate with the level of tax or financial support to be derived from each such voting entity. In determining the level of service, the board shall consider user benefits and community benefits, in terms of one or more of the following factors: availability of service, patronage, population, and capital improvements.

(e) The board shall adopt its budget at a public hearing held after the submission of the tentative or proposed budget. Notice of the time and place of the hearing shall be published pursuant to Section 6061 of the Government Code and shall be made not later than the 15th day prior to the date of the hearing.

SEC. 31. Section 102206 of the Public Utilities Code is amended to read:

102206. The district shall also submit to the legislative body of each voting entity with its tentative or proposed budget a statement of its proposed operations and level of service for the period covered by the budget, calling attention to any substantial or significant changes or proposed changes in operations and level of service within each voting entity and a draft of the vote allocation called for by Section 102105.1. A legislative body may include with its comments to the district on the budget, comments concerning the proposed operations, level of service, and vote allocation, and the board shall consider those comments prior to adopting the budget.

SEC. 32. Section 102265 of the Public Utilities Code is amended to read:

102265. The Sacramento Area Council of Governments shall be the long-range planning agency advising the district.

SEC. 33. Section 102311 of the Public Utilities Code is amended to read:

102311. The district shall have the power to obtain temporary transfers of funds in accordance with the last paragraph of Section 6 of Article XVI of the California Constitution.

SEC. 34. Section 102351 of the Public Utilities Code is amended to read:

102351. Notwithstanding Sections 7261 and 7262 of the Revenue and Taxation Code, the retail transactions and use tax ordinance shall provide for rates of one-quarter or one-half of one percent. The ordinance shall apply only within that portion of the district that consists of the City of Sacramento and the unincorporated territory of the County of Sacramento which is activated as part of the district as of the date of any election relating to the tax authorized by this article.

SEC. 35. Section 102501 of the Public Utilities Code is amended to read:

102501. Whenever the board deems it necessary for the district to incur a bonded indebtedness for the acquisition, construction, or repair of any or all improvements, works, property or facilities, authorized by this part or necessary or convenient for the carrying out of the powers of the district, or for any other purpose authorized by this part, it shall, by ordinance, adopted by a two-thirds vote of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the district; provided the total amount of bonds issued and outstanding pursuant to this article shall not exceed 15 percent of the assessed value of the taxable property of the district as shown by the last equalized assessment rolls of the counties of Sacramento, Placer, and Yolo. The ordinance shall state:

(a) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to or connected with the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(b) The estimated cost of accomplishing those purposes.

(c) The amount of the principal of the indebtedness.

(d) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 50 years from the date thereof or the date of each series thereof.

(e) The maximum rate of interest to be paid, which shall not exceed 7 percent per annum.

(f) The proposition to be submitted to the voters, which may include one or more purposes.

(g) The date of the election.

(h) The manner of holding the election and the procedure for voting for or against the measure.

(i) The ordinance may also contain any other matters authorized by this part or any other law.

SEC. 36. Section 102509 of the Public Utilities Code is amended to read:

102509. After the expiration of three years after a bond election, the board may determine, by ordinance adopted by a two-thirds vote of the board, that any or all of the bonds authorized at the election remaining unsold shall not be issued or sold. When the ordinance takes effect, the authorization to issue those bonds shall become void.

SEC. 37. Section 102510 of the Public Utilities Code is amended to read:

102510. Whenever the board deems that the expenditure of money for the purposes for which the bonds were authorized by the voters is impractical or unwise, it may, by ordinance adopted by a two-thirds vote of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of those bonds for some other purposes or, in the case where bonds have been sold, the proposition to use the proceeds for some other purposes. The procedure, so far as applicable, shall be the same as when a bond proposition is originally submitted.

SEC. 38. (a) On or before February 1, 2007, the Sacramento Regional Transit District shall, by first-class mail, deliver to the legislative body of each voting entity, as defined in Section 102027 of the Public Utilities Code, the following material:

(1) The information described in paragraphs (3) to (10), inclusive, of subdivision (b) of Section 102205 of the Public Utilities Code for the Sacramento Regional Transit District for its 2006–2007 fiscal year.

(2) A draft apportionment of votes, conducted in accordance with paragraphs (1) to (4), inclusive, of subdivision (d) of Section 102105.1 Public Utilities Code.

(b) The apportionment of votes shall be approved by the Board of Directors of the Sacramento Regional Transit District at a regularly scheduled meeting occurring at least 30 days after delivery of the material described in subdivision (a). Delivery shall be deemed to have occurred at the earlier of the actual receipt of the information by each voting entity or the second business day following deposit in the United States mail, postage prepaid.

(c) Weighted voting shall take place under the apportionment of votes approved by the Board of Directors of the Sacramento Regional Transit District and pursuant to the procedure in Section 102105.1 of the Public

Utilities Code until a new apportionment is approved as set forth in paragraph (5) of subdivision (d) of Section 102105.1 of the Public Utilities Code.

(d) Notwithstanding any other provision of this act, until the Board of Directors of the Sacramento Regional Transit District approves the apportionment of votes in accordance with this section or Section 102105.1 of the Public Utilities Code, all appointments to, and acts by, the Board of Directors of the Sacramento Regional Transit District shall be governed by the provisions of the Sacramento Regional Transit District Enabling Act in effect immediately prior to January 1, 2007.

SEC. 39. 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 273

An act to amend Section 48293 of the Education Code, relating to truants, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 48293 of the Education Code is amended to read:

48293. (a) Any parent, guardian, or other person having control or charge of any pupil who fails to comply with this chapter, unless excused or exempted therefrom, is guilty of an infraction and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than one hundred dollars ($100).

(2) Upon a second conviction, by a fine of not more than two hundred fifty dollars ($250).

(3) Upon a third or subsequent conviction, if the person has willfully refused to comply with this section, by a fine of not more than five hundred dollars ($500). In lieu of imposing the fines prescribed in

paragraphs (1), (2), and (3), the court may order the person to be placed in a parent education and counseling program.

(b) A judgment that a person convicted of an infraction be punished as prescribed in subdivision (a) may also provide for the payment of the fine within a specified time or in specified installments, or for participation in the program. A judgment granting a defendant time to pay the fine or prescribing the days of attendance in a program shall order that if the defendant fails to pay the fine, or any installment thereof, on the date that it is due, or fails to attend a program on a prescribed date, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(c) The court may also order that the person convicted of the violation of subdivision (a) immediately enroll or reenroll the pupil in the appropriate school or educational program and provide proof of enrollment to the court. Willful violation of an order under this subdivision is punishable as civil contempt with a fine of up to one thousand dollars ($1,000). An order of contempt under this subdivision shall not include imprisonment.

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

In order to ensure that pupils are enrolled or reenrolled in an appropriate school or educational program for the ensuing 2006–07 school year, it is necessary that this bill take effect immediately.

CHAPTER 274

An act to amend Section 1475 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 1475 of the Penal Code is amended to read:

1475. The writ of habeas corpus may be granted in the manner provided by law. If the writ has been granted by any court or a judge thereof and after the hearing thereof the prisoner has been remanded, he or she shall not be discharged from custody by the same or any other court of like general jurisdiction, or by a judge of the same or any other

court of like general jurisdiction, unless upon some ground not existing in fact at the issuing of the prior writ. Should the prisoner desire to urge some point of law not raised in the petition for or at the hearing upon the return of the prior writ, then, in case the prior writ had been returned or returnable before a superior court or a judge thereof, no writ can be issued upon a second or other application except by the appropriate court of appeal or some judge thereof, or by the Supreme Court or some judge thereof, and in the event the writ must not be made returnable before any superior court or any judge thereof. In the event, however, that the prior writ was returned or made returnable before a court of appeal or any judge thereof, no writ can be issued upon a second or other application except by the Supreme Court or some judge thereof, and the writ must be made returnable before said Supreme Court or some judge thereof.

Every application for a writ of habeas corpus must be verified, and shall state whether any prior application or applications have been made for a writ in regard to the same detention or restraint complained of in the application, and if any prior application or applications have been made the later application must contain a brief statement of all proceedings had therein, or in any of them, to and including the final order or orders made therein, or in any of them, on appeal or otherwise.

Whenever the person applying for a writ of habeas corpus is held in custody or restraint by any officer of any court of this state or any political subdivision thereof, or by any peace officer of this state, or any political subdivision thereof, a copy of the application for the writ must in all cases be served upon the district attorney of the county wherein the person is held in custody or restraint at least 24 hours before the time at which said writ is made returnable and no application for the writ can be heard without proof of service in cases where the service is required.

If the person is in custody for violation of an ordinance of a city which has a city attorney, a copy of the application for the writ must also be served on the city attorney of the city whose ordinance is the basis for the charge at least 24 hours before the time at which the writ is made returnable, provided that failure to serve the city attorney shall not deprive the court of jurisdiction to hear the application. If a writ challenging a denial of parole or the applicant's suitability for parole is then made returnable, a copy of the application for the writ and the related order to show cause shall in all cases be served by the superior court upon the office of the Attorney General and the district attorney of the county in which the underlying judgment was rendered at least three business days

before the time at which the writ is made returnable and no application for the writ can be heard without proof of such service.

CHAPTER 275

An act to add Article 4 (commencing with Section 6361) of Chapter 4 of Part 1 of Division 6 of the Public Resources Code, and to repeal Chapter 214 of the Statutes of 1937, Chapter 1835 of the Statutes of 1961, and Chapter 1828 of the Statutes of 1963, relating to tidelands and submerged lands and to convey certain tidelands and submerged lands to the City of Pittsburg.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Article 4 (commencing with Section 6361) is added to Chapter 4 of Part 1 of Division 6 of the Public Resources Code, to read:

Article 4. Conveyance of Tidelands and Submerged Lands to the City of Pittsburg

6361. As used in this article, the following definitions apply:

(a) "Plan" means trust lands use plan as described in Section 6364.

(b) "Public trust purposes" means purposes related to commerce, navigation, and fisheries, and other public trust purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational and visitor-oriented uses.

(c) "State" means the State of California.

(d) "Trustee" means the City of Pittsburg, a municipal corporation of the State of California, in Contra Costa County.

(e) "Trust lands" means all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City of Pittsburg as those boundaries exist on January 1, 2007.

(f) "Trust revenues" means all revenues received from trust lands and trust assets.

6362. (a) There is hereby granted in trust to the City of Pittsburg all of the right, title, and interest of the state held by the state by virtue of its sovereignty in and to all tidelands and submerged lands, whether

filled or unfilled, situated within the boundaries of the City of Pittsburg as such boundaries exist on January 1, 2007.

(b) The trust lands shall be held by the trustee and its successors in trust for the benefit of all the people of the state for public trust purposes, as more particularly provided in this article.

(c) This trust grant is subject to the following express conditions:

(1) The use of the trust lands shall be in conformity with the public trust and the plan, and shall be without cost to the state.

(2) The trustee or its successors shall not at any time grant, convey, give, or otherwise alienate the trust lands, or any part thereof, to any person, firm, entity, or corporation for any purposes whatsoever. The trustee may lease the trust lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the public trust and the plan. The trustee may collect and retain rents and other trust revenues from those leases, under rules and regulations adopted by the trustee.

(3) In the management, conduct, operation, and control of the trust lands, or any improvement, betterments, or structures thereon, the trustee or its successors shall make no illegal discrimination in rates, tolls, or charges for any use or service in connection herewith, nor shall the trustee discriminate against or unlawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.

(4) The state shall have the right to use, without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the trust lands for any vessel or other watercraft or railroad owned or operated by or under contract to the state.

(5) The state shall have the right, at any time in the future, to use the trust lands or any portion thereof for any authorized public use without compensation to the trustee, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements have been placed with legal authority upon the property taken by the state, compensation shall be made to the person entitled thereto for the value of the interest in the improvements taken or the damages to that interest.

(6) There is reserved to the people of the state the right to fish in the waters over the trust lands, with the right to convenient access to those waters over the trust lands for that purpose.

(7) There is excepted and reserved to the state all remains or artifacts of archaeological and historical significance and all deposit of minerals, including, but not limited to, all substances specified in Section 6407, in the trust lands, and the right to prospect for, mine, and remove those deposits from the lands.

(8) This grant is made subject to the rights of any and all persons under any title derived from the state or any of its agencies in or to any part of the trust lands.

(9) A survey of the trust lands pursuant to Sections 6358 and 6359 shall not be required, provided that the grantee has otherwise established a metes and bounds description of the trustee's corporate water boundaries.

6363. Revenue from lands, that are currently leased by the state and designated as state lease numbers PRC 2757.1, PRC 7643.1, PRC 7872.1, and Chapter Lease 18.1, shall remain revenue of the state and be transmitted to the state by the trustee.

6364. (a) On or before July 1, 2008, the trustee shall submit to the commission a plan indicating details of intended development, preservation, or other use of the trust lands. The trustee shall thereafter submit to the commission for approval all changes of, amendments to, or extensions of the plan. Any use of the trust lands shall be consistent with the plan as approved by the commission.

(b) The commission shall review with reasonable promptness the plan submitted by the trustee and any changes of or amendments to the plan to determine that they are consistent with the public trust and the requirements of this article. Based upon its review, the commission shall either approve or disapprove the plan. If the commission disapproves the plan, the commission shall furnish the trustee with its formal recommendations, and the trustee shall submit a revised plan to the commission within 180 days. If that revised plan is determined by the commission to be inconsistent with the public trust and the requirements of this article, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

(c) The plan shall include all of the following:

(1) A general description of the type of uses planned or proposed for the trust lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefits to be derived from the planned or proposed uses of the trust lands, including, but not limited to, the financial and environmental benefits and the furtherance of those purposes set forth in subdivision (b) of Section 6362.

(3) The proposed method of financing the planned or proposed uses of the trust lands, including estimated capital costs, annual operating costs, and anticipated annual trust revenues.

(4) An estimated timetable for implementation of the plan or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the trust lands.

(d) All leases or agreements proposed, or entered into by any trustee after July 1, 2008, shall be consistent with the plan submitted by the trustee and approved by the commission.

(e) Upon request, the trustee shall submit to the commission a copy of all leases and agreements entered into, renewed, or renegotiated with respect to the trust lands.

6365. The trustee shall demonstrate good faith in carrying out the plan and amending it when necessary in accordance with subdivisions (a) and (b) of Section 6364. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the trust lands, as required by the plan, in the time period set forth in paragraph (4) of subdivision (c) of Section 6364, or has unreasonably delayed adopting that proposal, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

6366. (a) The trustee shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and trust assets and of all expenditures of those revenues. If the trustee has several trust grants of adjacent lands and operates the granted lands as a single integrated entity, separation of accounting records for each trust grant is not required. All trust revenues shall be expended only for those uses and purposes set forth in subdivision (b) of Section 6362. The purpose of this subdivision is to provide for the segregation of funds derived from the use of the trust lands in order to ensure that they are only expended to enhance the trust lands in accordance with the trust uses and purposes upon which the trust lands are held.

(b) Trust revenues may be used to acquire appropriate uplands to benefit and enhance the trust with the prior written consent of the commission. Property acquired with these trust revenues shall be considered an asset of the trust and subject to the terms and conditions of this article.

6367. On or before October 1 of each year, the trustee shall file with the commission a detailed statement of all trust revenues and expenditures relating to its trust lands and trust assets, including obligations incurred but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the trustee.

6368. (a) To expend trust revenues for any single capital improvement on the trust lands involving an amount in excess of two hundred fifty thousand dollars ($250,000) in the aggregate, the trustee shall file with the commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith.

(b) Within 90 days after the time of that filing, the commission shall determine whether the capital improvement is in the statewide interest and benefit and is consistent with the conditions of this article. The commission may request the opinion of the Attorney General on the matter; and, if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination.

(c) If the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any trust revenues for, or in connection with, the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee may bring suit against the state for the purpose of securing an order or judgment, which suit shall have priority over all other civil matters.

(d) Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in that suit. If judgment is given against the state in the suit, costs may not be recovered.

6369. (a) On June 30, 2007, and at the end of every third fiscal year thereafter, that portion of the trustee's trust revenues in excess of two hundred fifty thousand dollars ($250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of trust activities shall be deemed excess revenues.

(b) Any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenues. To be deemed nonexcess revenues, any reserve funds for future capital expenditure shall be for projects that are consistent with the plan and have prior commission approval under Section 6368. Capital improvements of the trust lands made for purposes authorized by this article may be considered as expenditures for the purpose of determining excess revenues.

(c) The excess revenues, as determined pursuant to this section, shall be allocated 85 percent to the State Treasurer for deposit into the Kapiloff Land Bank Fund (Division 7 (commencing with Section 8600)) and 15 percent to the trustee for expenditures consistent with this article.

6369.1. The commission may, from time to time, institute a formal inquiry to determine that the terms and conditions of this article have

been complied with and that all other applicable provisions of law concerning the trust lands are being complied with in good faith.

6369.2. Reimbursement for the expenditure of nontrust revenues for management, maintenance, and improvements made to the trust shall be approved by the commission in advance of the expenditure, or the expenditure shall be deemed a gift to the trust.

6369.3. Whenever the commission finds that the trustee has violated, or is about to violate, the terms of its trust grant or any other principle of law relating to its obligation in connection with the lands granted pursuant to this article, the commission shall notify the trustee of the violations before the commission pursues other legal remedies.

SEC. 2. Chapter 214 of the Statutes of 1937 is repealed.

SEC. 3. Chapter 1835 of the Statutes of 1961 is repealed.

SEC. 4. Chapter 1828 of the Statutes of 1963 is repealed.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district 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 276

An act to add Section 2023 to the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 2023 is added to the Business and Professions Code, to read:

2023. (a) The board, in conjunction with the Health Professions Education Foundation, shall study the issue of its providing medical malpractice insurance to physicians and surgeons who provide voluntary, unpaid services as described in subdivision (b) of Section 2083, and report its findings to the Legislature on or before January 1, 2008.

(b) The report shall include, but not be limited to, a discussion of the following items:

(1) The cost of administering a program to provide medical malpractice insurance to the physicians and surgeons and the process for administering the program.

(2) The options for providing medical malpractice insurance to the physicians and surgeons and for funding the coverage.

(3) Whether the voluntary licensure surcharge fee assessed under Section 2435.2 (as added by Chapter 293 of the Statutes of 2005) is sufficient to fund the provision of medical malpractice insurance for the physicians and surgeons.

(c) This section shall be implemented only after the Legislature has made an appropriation from the Contingent Fund of the Medical Board of California to fund the study.

CHAPTER 277

An act to amend Sections 491.160, 708.170, and 1993 of the Code of Civil Procedure, and to amend Section 26744 of the Government Code, relating to civil warrants.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 491.160 of the Code of Civil Procedure is amended to read:

491.160. (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may do either of the following:

(A) Pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(B) Issue a warrant for the arrest of the person who failed to appear as required by the court order, pursuant to Section 1993.

(2) If the person's failure to appear is without good cause, the plaintiff shall be awarded reasonable attorney's fees incurred in the examination proceeding.

(b) A person who willfully makes an improper service of an order for an examination which subsequently results in the arrest pursuant to

subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

SEC. 2. Section 708.170 of the Code of Civil Procedure is amended to read:

708.170. (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may do either of the following:

(A) Pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(B) Issue a warrant for the arrest of the person who failed to appear as required by the court order, pursuant to Section 1993.

(2) If the person's failure to appear is without good cause, the judgment creditor shall be awarded reasonable attorney's fees incurred in the examination proceeding. Attorney's fees awarded against the judgment debtor shall be added to and become part of the principal amount of the judgment.

(b) A person who willfully makes an improper service of an order for an examination which subsequently results in the arrest pursuant to subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

SEC. 3. Section 1993 of the Code of Civil Procedure is amended to read:

1993. (a) (1) As an alternative to issuing a warrant for contempt pursuant to paragraph (5) or (9) of subdivision (a) of Section 1209, the court may issue a warrant for the arrest of a witness who failed to appear pursuant to a subpoena or a person who failed to appear pursuant to a court order. The court, upon proof of the service of the subpoena or order, may issue a warrant to the sheriff of the county in which the witness or person may be located and the sheriff shall, upon payment of fees as provided for in Section 26744.5 of the Government Code, arrest the witness or person and bring him or her before the court.

(2) Before issuing a warrant for a failure to appear pursuant to a subpoena pursuant to this section, the court shall issue a "failure to appear" notice informing the person subject to the subpoena that a failure to appear in response to the notice may result in the issuance of a warrant. This notice requirement may be omitted only upon a showing that the appearance of the person subject to the subpoena is material to the case and that urgency dictates the person's immediate appearance.

(b) The warrant shall contain all of the following:

(1) The title and case number of the action.

(2) The name and physical description of the person to be arrested.

(3) The last known address of the person to be arrested.

(4) The date of issuance and county in which it is issued.

(5) The signature of the magistrate issuing the warrant, the title of his or her office, and the name of the court.

(6) A command to arrest the person for failing to appear pursuant to the subpoena or court order, and specifying the date of service of the subpoena or court order.

(7) A command to bring the person to be arrested before the issuing court, or the nearest court if in session, for the setting of bail in the amount of the warrant or to release on the person's own recognizance. Any person so arrested shall be released from custody if he or she cannot be brought before the court within 12 hours of arrest, and the person shall not be arrested if the court will not be in session during the 12-hour period following the arrest.

(8) A statement indicating the expiration date of the warrant as determined by the court.

(9) The amount of bail.

(10) An endorsement for nighttime service if good cause is shown as provided in Section 840 of the Penal Code.

(11) A statement indicating whether the person may be released upon a promise to appear as provided by Section 1993.1. The court shall permit release upon a promise to appear, unless it makes a written finding that the urgency and materiality of the person's appearance in court precludes use of the promise to appear process.

(12) The date and time to appear in court if arrested and released pursuant to paragraph (11).

SEC. 4. Section 26744 of the Government Code is amended to read:

26744. The fee for serving or executing a bench warrant arising from an order of appearance issued under subparagraph (A) of paragraph (1) of subdivision (a) of Section 491.160 or subparagraph (A) of paragraph (1) of subdivision (a) of Section 708.170 of the Code of Civil Procedure is fifty dollars ($50).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 278

An act to amend Sections 10151, 10153.3, 10153.4, and 10153.5 of, and to repeal Section 10153.9 of, the Business and Professions Code, relating to real estate salespersons.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 10151 of the Business and Professions Code is amended to read:

10151. (a) Application for the real estate salesperson license examination shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the salesperson examination application. The application for the salesperson examination shall be accompanied by the real estate salesperson license examination fee.

(b) Persons who have been notified by the commissioner that they passed the real estate salesperson license examination may apply for a real estate salesperson license. A person applying for the salesperson examination may also apply for a real estate salesperson license. However, a license shall not be issued until the applicant passes the real estate salesperson license examination. If there is any change to the information contained in a real estate salesperson license application after the application has been submitted and before the license has been issued, the commissioner may require the applicant to submit a supplement to the application listing the changed information.

(c) An application for the real estate salesperson license examination or for both the examination and license that is received by the commissioner on or after October 1, 2007, shall include evidence or certification, satisfactory to the commissioner, of successful completion at an accredited institution of a three-semester unit course, or the quarter equivalent thereof, or successful completion of an equivalent course of study as defined in Section 10153.5, in real estate principles as well as the successful completion at an accredited institution of a course in real estate practice and one additional course set forth in Section 10153.2, other than real estate principles, real estate practice, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal. The applicant shall provide this evidence or certification to the commissioner prior to taking the real estate salesperson license examination.

(d) The commissioner shall waive the requirements of this section for the following applicants:

(1) An applicant who is a member of the State Bar of California.

(2) An applicant who has qualified to take the examination for an original real estate broker license by satisfying the requirements of Section 10153.2.

SEC. 2. Section 10153.3 of the Business and Professions Code is amended to read:

10153.3. (a) This section shall apply to an application for the real estate salesperson license examination, the real estate salesperson license, and for both the examination and license received by the commissioner prior to October 1, 2007.

(b) Application for the real estate salesperson license examination pursuant to this section shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the salesperson examination application. The application for the salesperson examination shall be accompanied by the real estate salesperson license examination fee.

(c) In order to take the examination for a real estate salesperson license, an applicant under this section shall submit evidence or certification satisfactory to the commissioner of enrollment in, or successful completion at, an accredited institution of a three-semester unit course, or the quarter equivalent thereof, or successful completion of an equivalent course of study as defined in Section 10153.5, in real estate principles. Evidence of enrollment satisfactory to the commissioner may include a statement from the applicant made under penalty of perjury.

(d) An applicant under this section may take the real estate salesperson license examination within two years of the date his or her application was received by the commissioner. Notwithstanding subdivision (c), if the applicant fails to schedule an examination or to obtain a passing score on it within that time period, he or she shall be required to submit evidence or certification satisfactory to the commissioner of satisfactory completion at an accredited institution of the courses described in subdivision (c) of Section 10151 or satisfactory completion of an equivalent course of study as defined in Section 10153.5, before taking the examination.

(e) An applicant under this section shall, prior to issuance of the real estate salesperson license, submit evidence or certification satisfactory to the commissioner of successful completion of the real estate principles course as described in subdivision (c) and of successful completion at an accredited institution or successful completion of an equivalent course of study as defined in Section 10153.5, of a course in real estate practice

and one additional course set forth in Section 10153.2 other than real estate principles, real estate practice, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal.

(f) The commissioner shall waive the requirements of this section for an applicant who is a member of the State Bar of California, or who has completed an equivalent course of study, as determined under Section 10153.5, or who has qualified to take the examination for an original real estate broker license by satisfying the requirements of Section 10153.2.

SEC. 3. Section 10153.4 of the Business and Professions Code is amended to read:

10153.4. (a) This section shall apply to an application for the real estate salesperson license examination, the real estate salesperson license, and for both the examination and license received by the commissioner prior to October 1, 2007, if the applicant obtains a passing score on the real estate salesperson license examination and submits a license application prior to October 1, 2007.

(b) Application for the real estate salesperson license examination pursuant to this section shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the salesperson examination application. The application for the salesperson examination shall be accompanied by the real estate salesperson license examination fee.

(c) An applicant under this section shall comply with the requirements of subdivision (c) of Section 10153.3 in order to take the real estate salesperson license examination.

(d) An applicant under this section who obtains a passing score on the real estate salesperson license examination prior to October 1, 2007, shall, prior to the issuance of the real estate salesperson license, submit evidence or certification satisfactory to the commissioner of successful completion at an accredited institution of a three-semester unit course, or the quarter unit equivalent thereof, or successful completion of an equivalent course of study as defined in Section 10153.5, in real estate principles as described in subdivision (c) of Section 10153.3. An applicant for an original real estate salesperson license under this section shall also, prior to the issuance of the license, or within 18 months after issuance, submit evidence or certification satisfactory to the commissioner of successful completion at an accredited institution or a private vocational school, as specified in Section 10153.5, of a course in real estate practice and one additional course set forth in Section 10153.2, other than real estate principles, real estate practice, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal.

(e) A salesperson who qualifies for a license pursuant to this section shall not be required for the first license renewal thereafter to complete the continuing education pursuant to Article 2.5 (commencing with Section 10170), except for the courses specified in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 10170.5 or, on and after July 1, 2007, except for the courses specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 10170.5.

(f) The salesperson license issued to an applicant who has satisfied only the requirements of subdivision (c) at the time of issuance shall be automatically suspended effective 18 months after issuance if the licensee has failed to satisfy the requirements of subdivision (d). The suspension shall not be lifted until the suspended licensee has submitted the required evidence of course completion and the commissioner has given written notice to the licensee of the lifting of the suspension.

(g) The original license issued to a salesperson shall clearly set forth the conditions of the license and shall be accompanied by a notice of the provisions of this section and of any regulations adopted by the commissioner to implement this section.

(h) The commissioner shall waive the requirements of this section for any person who presents evidence of admission to the State Bar of California, and the commissioner shall waive the requirement for any course for which an applicant has completed an equivalent course of study as determined under Section 10153.5.

SEC. 4. Section 10153.5 of the Business and Professions Code is amended to read:

10153.5. As used in Sections 10151, 10153.2, 10153.3, and 10153.4, "an equivalent course of study" consists of courses at a private vocational school that have been found by the commissioner, upon consideration of an application for approval, to be equivalent in quality to the real estate courses offered by the colleges and universities accredited by the Western Association of Schools and Colleges.

As used in Sections 10151, 10153.2, 10153.3, and 10153.4, "accredited institution" shall mean a college or university that either:

(a) Is accredited by the Western Association of Schools and Colleges, or by any other regional accrediting agency recognized by the United States Department of Education.

(b) In the judgment of the commissioner, has a real estate curriculum equivalent in quality to that of the institutions accredited pursuant to subdivision (a).

SEC. 5. Section 10153.9 of the Business and Professions Code is repealed.

CHAPTER 279

An act to amend Sections 4, 20, and 26.7 of, to amend and repeal Section 7.2 of, to amend, repeal, and add Sections 7 and 7.3 of, and to repeal Sections 7.4 and 8 of, the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 4 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 170 of the Statutes of 2001, is amended to read:

Sec. 4. (a) The purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County.

(b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act.

(c) The district may take action to do all of the following:

(1) Protect Santa Clara County from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.

(2) Protect from that floodwater or stormwater the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.

(3) Provide for the conservation and management of floodwater, stormwater, or recycled water, or other water from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the waters to percolate into the soil within the district.

(4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.

(5) Increase and prevent the waste or diminution of the water supply in the district.

(6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources, within or outside the watershed in which the district is located for any beneficial uses within the district.

(7) Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out the purposes set forth in this section.

(8) Preserve open space in Santa Clara County and support the county park system in a manner that is consistent with carrying out the powers granted by this section.

SEC. 2. Section 7 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 56 of the Statutes of 1973, is amended to read:

Sec. 7. (a) (1) The board of directors shall consist of seven members. Five members shall be elected, one from each of the five county supervisorial districts. Two members shall be appointed by the Board of Supervisors of Santa Clara County representing the district at large. The term of office of directors shall be four years. The directors shall hold office until their successors are elected or appointed and qualified.

(2) In this act, unless the context requires otherwise, "board" and "board of directors" mean the board of directors of the district.

(b) Notwithstanding subdivision (a), the terms of the two appointed directors shall expire on December 31, 2009.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed.

SEC. 3. Section 7 is added to the Santa Clara Valley Water District Act (Chapter 205 of the Statutes of 1967), to read:

Sec. 7. (a) (1) The board of directors shall consist of five members, one elected from each of the five county supervisorial districts. The term of office of directors shall be four years. The directors shall hold office until their successors are elected or appointed and qualified.

(2) In this act, unless the context requires otherwise, "board" and "board of directors" mean the board of directors of the district.

(b) This section shall become operative on January 1, 2010.

SEC. 4. Section 7.2 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 164 of the Statutes of 1988, is amended to read:

Sec. 7.2. (a) The two appointed directors shall represent the district at large. One appointed director shall have been a qualified elector for a period of at least two years immediately preceding his or her appointment in that portion of the district that consisted of the area of the Gavilan Water Conservation District on November 8, 1967. The other appointed director shall have been a qualified elector in that portion of the district that consisted of the area of the Santa Clara Valley Water Conservation District on November 8, 1967. Each appointed director shall continue to reside within the area from which the director was appointed during his or her incumbency in office.

(b) The first term of office of the appointed director residing in the area of the Santa Clara Valley Water Conservation District shall terminate on the first Monday in January of the first even-numbered year following his or her appointment, and the first term of office of the director residing in the area of the Gavilan Water Conservation District shall terminate on the first Monday in January of the second even-numbered year following his or her appointment.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed.

SEC. 5. Section 7.3 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as added by Chapter 205 of the Statutes of 1967, is amended to read:

Sec. 7.3. (a) Whenever a vacancy occurs in the office of an elected director, the vacancy shall be filled by appointment by the board of directors of a qualified elector from the district in which the vacancy occurs. If an appointment is not made within 30 days from the occurrence of the vacancy, the Board of Supervisors of Santa Clara County shall make the appointment. An appointee shall hold office until the election and qualification of his or her successor. At the next general election following any vacancy, a director shall be elected for the unexpired term of the office unless the term is to expire on the first Monday in January of the year succeeding the general election.

(b) Whenever a vacancy occurs in the office of an appointed director, the vacancy shall be filled by appointment by the board of a qualified elector from the area in which the vacancy occurs for the unexpired term of the office.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed.

SEC. 6. Section 7.3 is added to the Santa Clara Valley Water District Act (Chapter 205 of the Statutes of 1967), to read:

Sec. 7.3. Any vacancy in the office of a director shall be filled pursuant to Section 1780 of the Government Code.

(b) This section shall become operative on January 1, 2010.

SEC. 7. Section 7.4 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as added by Chapter 205 of the Statutes of 1967, is repealed.

SEC. 8. Section 8 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 205 of the Statutes of 1967, is repealed.

SEC. 9. Section 20 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as added by Chapter 205 of the Statutes of 1967, is amended to read:

Sec. 20. (a) On or before June 15 of each year, the board shall meet, at the time and place designated by published notice, at which meeting any member of the general public may appear and be heard regarding any item in the proposed budget or for the inclusion of additional items.

(b) After the conclusion of the meeting, and not later than June 30 of each year, and after making any revisions of, deductions from, or increases or additions to, the proposed budget that the board determines advisable during or after the meeting, the board, by resolution, shall adopt the budget as finally determined.

SEC. 10. Section 26.7 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 664 of the Statutes of 1992, is amended to read:

Sec. 26.7. (a) (1) Prior to the end of the water year in which the hearing is held, and based upon the findings and determinations from the hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones.

(2) If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix the charge or charges against all persons operating groundwater-producing facilities within the zone or zones during the ensuing water year.

(3) (A) The charge shall be computed at a fixed and uniform rate or rates per acre-foot for agricultural water, and at a fixed and uniform rate or rates per acre-foot for all water other than agricultural water.

(B) Different rates may be established in different zones, except that in each zone the rate or rates for agricultural water shall be fixed and uniform.

(C) The rate or rates, as applied to operators who produce groundwater above a specified annual amount, may, except in the case of any person extracting groundwater in compliance with a government-ordered program of cleanup of hazardous waste contamination, be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board, upon a finding by the board that conditions of drought and water shortage require the increases. The increases shall be related directly to the reduction in the affected zone groundwater levels in the same base period.

(D) The rates shall be established each year in accordance with a budget for that year approved by the board pursuant to this act, or amendments or adjustments to that budget, and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each rate for agricultural water shall not exceed one-fourth of the rate for all water other than agricultural water.

(b) (1) The board may also impose or adjust any groundwater charge, and the rate of any charge, on or before January 1 of each water year whenever the board determines that the imposition or adjustment of the charge is necessary.

(2) The board shall prepare a supplemental report to the annual report prepared pursuant to Section 26.5, explaining the reasons for the imposition or adjustment of the charge. The board shall file the supplemental report with the clerk of the board at least 45 days before the date the new or adjusted charge is proposed to take effect.

(3) (A) The clerk shall publish in a newspaper of general circulation published within the district, pursuant to Section 6061 of the Government Code, a notice of the receipt of the supplemental report and a hearing to be held on the proposed imposition or adjustment of the groundwater charge at least 31 days before the date on which the new or adjusted charge is proposed to take effect and at least 10 days before the date of the hearing.

(B) The notice shall invite any operator of a water-producing facility within the district and other interested parties to examine the supplemental report prepared pursuant to paragraph (2) at the district office.

(4) (A) A public hearing shall be held at least 21 days before the date on which the new or adjusted groundwater charge is proposed to take effect in the chambers of the board.

(B) Any operator of a water-producing facility within the district may, in person or by means of a representative, present evidence at the hearing concerning the imposition or adjustment of the groundwater charge.

(c) Any groundwater charge levied pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof.

(d) Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility from which the production of water is otherwise properly charged, or in the making or extension of any charge upon the records that do not affect the substantial rights of the assessee or assessees, shall not invalidate the groundwater charge.

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 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 280

An act to add Section 6132 to the Probate Code, relating to probate matters.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 6132 is added to the Probate Code, to read:

6132. (a) Notwithstanding any other provision, a will may refer to a writing that directs disposition of tangible personal property not otherwise specifically disposed of by the will, except for money that is common coin or currency and property used primarily in a trade or business. A writing directing disposition of a testator's tangible personal property is effective if all of the following conditions are satisfied:

(1) An unrevoked will refers to the writing.

(2) The writing is dated and is either in the handwriting of, or signed by, the testator.

(3) The writing describes the items and the recipients of the property with reasonable certainty.

(b) The failure of a writing to conform to the conditions described in paragraph (2) of subdivision (a) does not preclude the introduction of evidence of the existence of the testator's intent regarding the disposition of tangible personal property as authorized by this section.

(c) The writing may be written or signed before or after the execution of the will and need not have significance apart from its effect upon the dispositions of property made by the will. A writing that meets the requirements of this section shall be given effect as if it were actually contained in the will itself, except that if any person designated to receive property in the writing dies before the testator, the property shall pass as further directed in the writing and, in the absence of any further directions, the disposition shall lapse.

(d) The testator may make subsequent handwritten or signed changes to any writing. If there is an inconsistent disposition of tangible personal property as between writings, the most recent writing controls.

(e) (1) If the writing directing disposition of tangible personal property omits a statement as to the date of its execution, and if the

omission results in doubt whether its provisions or the provisions of another writing inconsistent with it are controlling, then the writing omitting the statement is invalid to the extent of its inconsistency unless the time of its execution is established to be after the date of execution of the other writing.

(2) If the writing directing disposition of tangible personal property omits a statement as to the date of its execution, and it is established that the testator lacked testamentary capacity at any time during which the writing may have been executed, the writing is invalid unless it is established that it was executed at a time when the testator had testamentary capacity.

(f) (1) Concurrent with the filing of the inventory and appraisal required by Section 8800, the personal representative shall also file the writing that directs disposition of the testator's tangible personal property.

(2) Notwithstanding paragraph (1), if the writing has not been found or is not available at the time of the filing of the inventory and appraisal, the personal representative shall file the writing no later than 60 days prior to filing the petition for final distribution pursuant to Section 11640.

(g) The total value of tangible personal property identified and disposed of in the writing shall not exceed twenty-five thousand dollars ($25,000). If the value of an item of tangible personal property described in the writing exceeds five thousand dollars ($5,000), that item shall not be subject to this section and that item shall be disposed of pursuant to the remainder clause of the will. The value of an item of tangible personal property that is disposed of pursuant to the remainder clause of the will shall not be counted towards the twenty-five thousand dollar ($25,000) limit described in this subdivision.

(h) As used in this section, the following definitions shall apply:

(1) "Tangible personal property" means articles of personal or household use or ornament, including, but not limited to, furniture, furnishings, automobiles, boats, and jewelry, as well as precious metals in any tangible form, such as bullion or coins and articles held for investment purposes. The term "tangible personal property" does not mean real property, a mobilehome as defined in Section 798.3 of the Civil Code, intangible property, such as evidences of indebtedness, bank accounts and other monetary deposits, documents of title, or securities.

(2) "Common coin or currency" means the coins and currency of the United States that are legal tender for the payment of public and private debts, but does not include coins or currency kept or acquired for their historical, artistic, collectable, or investment value apart from their normal use as legal tender for payment.

CHAPTER 281

An act to amend Section 6365 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 6365 of the Revenue and Taxation Code is amended to read:

6365. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, original works of art, which are:

(1) Purchased by this state or any city, county, city and county, or other local governmental entity;

(2) Purchased by any nonprofit organization operating any public museum for, and pursuant to contract with, any such governmental entity;

(3) Purchased by any nonprofit organization which has qualified for exemption pursuant to Section 23701d for one or more museums regularly open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year and operated by the purchaser of such art or operated by another nonprofit organization which has qualified for exemption pursuant to Section 23701d;

(4) Purchased for donation and actually donated by delivery by the retailer pursuant to the instructions of the buyer to any such governmental entity, or nonprofit organization, and evidenced by a written transfer of title from the buyer to such governmental entity or nonprofitorganization; or

(5) Leased from one nonprofit organization to another nonprofit organization for 35 years or more, if both the lessor and lessee are nonprofit organizations as defined in either paragraph (2) or (3).

(b) The exemption provided by this section shall apply only to works of art purchased to become part of the permanent collection of any of the following:

(1) A museum.

(2) A nonprofit corporation which has qualified for exemption pursuant to Section 23701d; regularly loans not less than 85 percent of the value of its collection of works of art to one or more museums; and is required by its articles of incorporation to loan its works of art and is otherwise prohibited by its articles from making any private use of its works of art; provided, that the work of art for which the exemption is

claimed pursuant to this section shall actually be placed on display at one or more museums in California for not less than 24 months during the three-year period commencing from the date of purchase.

(3) Any city, county, city and county, or other local governmental entity and this state which purchases, commissions, or leases from any such governmental entity public art for display to the public in buildings, parks, plazas, or other public places. These areas shall be open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year.

(c) For purposes of this section, "work of art" means a work of visual art, including, but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of graphic art (including, but not limited to, an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including, but not limited to, crafts in clay, textile, fiber, wood, metal, plastic, glass, costume, dress, clothing, personal adornment, and like materials), or mixed media (including, but not limited to, a collage, assemblage, or any combination of the foregoing art media).

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge;

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

(e) For the purposes of this section, "permanent collection" as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

(f) Any public entity or nonprofit organization claiming an exemption pursuant to this section shall maintain records, in such forms as prescribed by the board, sufficient to substantiate its claim. Such records shall include, but not be limited to, the date of purchase, the purchase price, the date the property was first brought into this state, and the dates and locations the work of art was on display at a museum.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first

calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 282

An act to add and repeal Section 1659.9 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 1659.9 is added to the Vehicle Code, to read:

1659.9. (a) Upon the receipt of funds from the Office of Traffic Safety in the Business, Transportation and Housing Agency for a pilot study on the use of a three-tier assessment system for driver's license referral and in-office renewal candidates, the department shall conduct the pilot study to determine the effectiveness of the three-tier assessment system in identifying functional impairments, reducing crashes, and prolonging safe driving years of all drivers regardless of age.

(b) The three-tier assessment system specified in subdivision (a) shall consist of all of the following:

(1) (A) Except as provided in subparagraph (B), a first tier consisting of relatively short, easy to administer screening tests to detect drivers who may have a condition that impairs their driving ability.

(B) Upon the receipt of a request for a reexamination issued pursuant to Section 21061, receipt of a report from a local health officer issued pursuant to subdivision (b) of Section 103900 of the Health and Safety Code, or receipt of information from a family member under Section 13803, the department shall, at a minimum, conduct a vision and behind-the-wheel driving test.

(2) A second tier consisting of tests that are sufficiently complex to more closely simulate driving conditions that would distinguish persons who may be impaired from those who are actually impaired for driving-related tasks.

(3) A third tier consisting of an area driving performance evaluation for candidates who demonstrate considerable limitation based on the first two tiers.

(c) Notwithstanding Section 7550.5 of the Government Code, the department on or before December 31, 2011, shall submit to the

Legislature a final report of the pilot study that contains all of the following:

(1) A projection of the costs associated with the area driving performance evaluation.

(2) A determination of the willingness of a participant to pay a fee for the area driving performance evaluation.

(3) A determination of the percentage of drivers who were assessed to have a limitation, but who, upon completion of the assessment, were able to retain their driving privileges.

(4) The utilization a of certified driving rehabilitation specialist.

(5) The results regarding crash rates and retention of driving privileges.

(d) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

CHAPTER 283

An act to add Section 71041 to the Public Resources Code, relating to environmental protection.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 71041 is added to the Public Resources Code, to read:

71041. The CALGOLD program shall be reviewed periodically and, when necessary, updated to assist businesses in the state that would benefit from information on permitting and regulatory compliance, including emerging industries and life sciences industries.

CHAPTER 284

An act to amend Sections 6832 and 6835.1 of, to add Sections 6830.2, 6894.1, 6894.2, and 6910 to, and to repeal and add Section 6830.1 of, the Harbors and Navigation Code, relating to the Sacramento-Yolo Port District.

[Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 6830.1 of the Harbors and Navigation Code is repealed.

SEC. 2. Section 6830.1 is added to the Harbors and Navigation Code, to read:

6830.1. Notwithstanding Section 6830, the Sacramento-Yolo Port Commission shall be composed of five members selected and appointed as follows:

(a) Four commissioners shall be appointed by the City Council of the City of West Sacramento, which commissioners may be members of the city council, and notwithstanding Section 6835, shall be residents of the City of West Sacramento. The appointments shall be made in the manner set by law for appointments by the City of West Sacramento.

(b) One commissioner shall be appointed by the Board of Supervisors of Yolo County, which commissioner may be a member of the board of supervisors and, notwithstanding Section 6835, shall be a resident of the City of West Sacramento. The appointment shall be made in the manner set by law for appointments by the County of Yolo.

SEC. 3. Section 6830.2 is added to the Harbors and Navigation Code, to read:

6830.2. The boundaries of the Sacramento-Yolo Port District are hereby established to coincide with the first supervisorial district of the County of Yolo, as of October 1, 2005. The boundaries also shall include all property owned by the Sacramento-Yolo Port District in Solano County that was incorporated into the district by the Sacramento County Local Agency Formation Commission on May 29, 1992.

SEC. 4. Section 6832 of the Harbors and Navigation Code is amended to read:

6832. (a) The mayor of the municipality in which is located the largest proportion in value of the land within the district, or any chairperson of any of the boards of supervisors of the counties in which the district is located, may call meetings of the board of election.

(b) This section does not apply to the Sacramento-Yolo Port District.

SEC. 5. Section 6835.1 of the Harbors and Navigation Code is amended to read:

6835.1. Notwithstanding any other provision of law, a person shall not be ineligible for appointment to the board because he or she is an elected official or employee of an appointing authority to the board. The appointment of a person to the office of the board shall not be deemed incompatible with being an elected official or employee of an appointing authority to the board, and shall not prevent an elected official or employee so appointed from acting on a proposal before the board

affecting the appointing authority. Any regulation providing for the disqualification of a person for that reason is null and void.

SEC. 6. Section 6894.1 is added to the Harbors and Navigation Code, to read:

6894.1. Notwithstanding the provisions of Section 6894, the board of the Sacramento-Yolo Port District shall not do any of the following:

(a) Sell or dismantle the Deepwater Channel or the North Terminal Property without the prior consent of the City of Sacramento, the County of Sacramento, and the County of Yolo.

(b) Sell or lease for nonmaritime purposes, land in excess of 10 acres located north of Southport Parkway and west of Lake Washington, unless, prior to executing a sale or lease, the board makes a written finding, based on substantial evidence in the record, that the proposed sale or lease is necessary to maintain the financial viability of the port.

SEC. 7. Section 6894.2 is added to the Harbors and Navigation Code, to read:

6894.2. (a) Moneys in the Riverfront Enhancement Fund, created by the Joint Port Governance Agreement dated January 15, 2006, shall be expended exclusively on projects related to the Sacramento and American Rivers, including tributaries and fluvial features, encompassed within the Counties of Sacramento and Yolo. Projects may include, but are not limited to, those of regional significance; capital improvements on riverfronts; maintenance and operation of riverfronts, waterways, and parkways; and conservation and environmental studies and projects.

(b) In order to provide a disincentive for port closure to the host jurisdiction, which would receive properties of the Sacramento-Yolo Port District in event of its closure in accordance with this code, if the Port of Sacramento is closed and liquidated on or after January 15, 2016, and prior to January 15, 2026, the net proceeds from the liquidation shall be distributed to the Riverfront Enhancement Fund, less 10 percent for each year after January 15, 2016, that shall be distributed to the City of West Sacramento.

(c) Nothing in this section shall be construed to authorize or prohibit the sale or lease of any property of the Port of Sacramento.

SEC. 8. Section 6910 is added to the Harbors and Navigation Code, to read:

6910. (a) Except as provided in subdivision (b), the Sacramento-Yolo Port District shall not exercise the power of eminent domain in the County of Sacramento, the City of Sacramento, the County of Yolo, or the County of Solano, without specific authorization respectively from the County of Sacramento, the City of Sacramento, the County of Yolo, or the County of Solano.

(b) This section does not apply to the Sacramento-Yolo Port District if it exercises the power of eminent domain in the City of West Sacramento.

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 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 285

An act to amend Sections 14992, 15053, 15054, and 15055 of the Food and Agricultural Code, relating to food and agricultural programs.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 14992 of the Food and Agricultural Code is amended to read:

14992. The label shall contain a legible and plainly printed statement which certifies all of the following:

(a) The net weight or volume of the contents of the lot or parcel unless accompanied by a certified certificate of weights and measures.

(b) The product name, brand name, or trademark.

(c) The name and principal address of the manufacturer or person that is responsible for placing the commodity on the market.

(d) The guaranteed analysis stated in terms as the director specifies by regulation.

(e) The recognized official name, as specified by the director, of each ingredient. The director may by regulation permit the use of a collective term for a group of ingredients which performs a similar function. The director may exempt a commercial feed, or any combination of commercial feeds from labeling requirements if he or she finds the listing is not necessary to comply with the intent of this chapter.

(f) Adequate directions, warnings and caution statements that may be necessary for the safe use of any feed.

SEC. 2. Section 15053 of the Food and Agricultural Code is amended to read:

15053. (a) Each application for a license shall be accompanied by an annual fee specified by the department for each location. Beginning on January 1, 2007, the minimum license fee shall be one hundred dollars ($100) for each location and the maximum license fee for each location shall not exceed six hundred dollars ($600) for each location with the specific fee to be set by the secretary upon recommendation of the Feed Inspection Advisory Board. Those licensees with feed licenses on the effective date of the bill who have previously paid their license fees for the then current fiscal year shall not be subject to any new fees until their licenses are renewed. Beginning January 1, 2010, the license fee shall be one hundred dollars ($100) for each location. Those licensees with feed licenses on that date who have previously paid their license fees for the then current fiscal year shall not be subject to any new license fees until their licenses are renewed.

(b) Revenues generated from license fees shall be used to replenish feed inspection program reserves to a minimum of 25 percent of program expenditures, after which point some of the revenues from these fees shall be used to reduce feed tonnage taxes provided for in this chapter upon recommendation of the Feed Inspection Advisory Board.

SEC. 3. Section 15054 of the Food and Agricultural Code is amended to read:

15054. All licenses shall be renewed on July 1 of each year and shall be valid until June 30 of the next year. Each application for renewal shall be accompanied by a fee in an amount specified by the department, pursuant to Section 15053, for each location operated.

SEC. 4. Section 15055 of the Food and Agricultural Code is amended to read:

15055. If a license is not renewed within one calendar month following its expiration, a penalty of one hundred dollars ($100) shall be added to the fee.

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 286

An act to amend Sections 11162.1, 11164, 11165, 11165.1, and 11190 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 11162.1 of the Health and Safety Code is amended to read:

11162.1. (a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermo-chromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form and the following quantities shall appear:

1–24
25–49
50–74
75–100
101–150
151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by their name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons preprinted on the form.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and the quantity of controlled substance prescription forms issued to each prescriber and be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to the requirements set forth in subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a

computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) This section shall become operative on July 1, 2004.

SEC. 2. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(e) This section shall become operative on January 1, 2005.

SEC. 3. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the

purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, the dispensing pharmacy shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ICD-9 (diagnosis code), if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) This section shall become operative on January 1, 2005.

SEC. 4. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) A licensed health care practitioner eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances or a pharmacist may make a written request for, and the Department of Justice may release to that practitioner or pharmacist, the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.

(2) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(b) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(c) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

SEC. 5. Section 11190 of the Health and Safety Code is amended to read:

11190. (a) Every practitioner, other than a pharmacist, who prescribes or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(1) The name and address of the patient.

(2) The date.

(3) The character, including the name and strength, and quantity of controlled substances involved.

(b) The prescriber's record shall show the pathology and purpose for which the controlled substance was administered or prescribed.

(c) (1) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance that is dispensed by a prescriber pursuant to Section 4170 of the Business and Professions Code, the prescriber shall record and maintain the following information:

(A) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the patient.

(B) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(C) NDC (National Drug Code) number of the controlled substance dispensed.

(D) Quantity of the controlled substance dispensed.

(E) ICD-9 (diagnosis code), if available.

(F) Number of refills ordered.

(G) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(H) Date of origin of the prescription.

(2) (A) Each prescriber that dispenses controlled substances shall provide the Department of Justice the information required by this subdivision on a weekly basis in a format set by the Department of Justice pursuant to regulation.

(B) The reporting requirement in this section shall not apply to the direct administration of a controlled substance to the body of an ultimate user.

(d) This section shall become operative on January 1, 2005.

(e) The reporting requirement in this section for Schedule IV controlled substances shall not apply to any of the following:

(1) The dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less.

(2) The administration or dispensing of a controlled substance in accordance with any other exclusion identified by the United States Health and Human Service Secretary for the National All Schedules Prescription Electronic Reporting Act of 2005.

(f) Notwithstanding paragraph (2) of subdivision (c), the reporting requirement of the information required by this section for a Schedule II or Schedule III controlled substance, in a format set by the Department of Justice pursuant to regulation, shall be on a monthly basis for all of the following:

(1) The dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less.

(2) The administration or dispensing of a controlled substance in accordance with any other exclusion identified by the United States Health and Human Service Secretary for the National All Schedules Prescription Electronic Reporting Act of 2005.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 287

An act to amend Section 1037.2 of the Penal Code, relating to changes of venue.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 1037.2 of the Penal Code is amended to read:

1037.2. (a) Change of venue costs, as defined in Section 1037, that are incurred by the receiving county and not defined as court operations under Section 77003 of the Government Code or Rule 810 of the California Rules of Court shall be considered to be county costs to be paid by the transferring county to the receiving county. County costs include, but are not limited to, alterations, including all construction related costs, to a courthouse made that only resulted from the transfer of the trial, rental of furniture or equipment that only resulted from the transfer of the trial, inmate transportation provided by the county sheriff from the jail to the courthouse, security of the inmate or other participants in the trial, unique or extraordinary costs for the extended storage and safekeeping of evidence related to the trial, rental of jury parking lot, jury parking lot security and related costs, security expenses incurred by the county Sheriff or a contracted agency that resulted only from the transfer of the trial, and information services for the court, jury, public, or media.

(b) Transferring counties shall approve a budget and a timeline for the payment of county costs before the beginning of trial.

(c) Claims for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the transferring county on a monthly basis. The treasurer shall pay the amount of county costs out of the general funds of the transferring county within 30 days of receiving the claim for costs from the receiving county.

(d) (1) The transferring court may, in its sound discretion, determine the reasonable and necessary costs under this section.

(2) The transferring court's approval of costs shall become effective 10 days after the court has given written notice of the costs to the auditor of the transferring county.

(3) During the 10-day period specified in paragraph (2), the auditor of the transferring county may contest the costs approved by the transferring court.

(4) If the auditor of the transferring county fails to contest the costs within the 10-day period specified in paragraph (2), the transferring county shall be deemed to have waived the right to contest the imposition of these costs.

CHAPTER 288

An act to amend Sections 2800, 8800, 16020, 16502, 22651.4, 34500, 34507, 34507.5, 34517, and 40303 of, to amend and renumber Section 6855 of, to add Section 34500.3 to, and to repeal Chapter 2 (commencing with Section 29200), Chapter 3 (commencing with Section 29800), and Chapter 4 (commencing with Section 30800) of, and Article 3 (commencing with Section 31500), Article 4 (commencing with Section 31510), Article 5 (commencing with Section 31520), and Article 6 (commencing with Section 31530) of Chapter 5 of, Division 13 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 2800 of the Vehicle Code is amended to read:

2800. (a) It is unlawful to willfully fail or refuse to comply with a lawful order, signal, or direction of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties pursuant to any of the provisions of this code, or to refuse to submit to a lawful inspection pursuant to this code.

(b) Except as authorized pursuant to Section 24004, it is unlawful to fail or refuse to comply with a lawful out-of-service order issued by an authorized employee of the Department of the California Highway Patrol or by a uniformed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer or authorized employee is performing duties pursuant to any provision of this code and the out-of-service order complies with Section 395.13 or 396.9 of Title 49 of the Code of Federal Regulations.

(c) It is unlawful to fail or refuse to comply with a lawful out-of-service order issued by the United States Secretary of the Department of Transportation.

(d) It is unlawful to fail or refuse to comply with a lawful out-of-service order issued by a peace officer or commercial vehicle

inspector, of any state, any Province of Canada, or the Federal Government of the United States, Canada, or Mexico, when that peace officer or commercial vehicle inspector is in uniform and is performing duties under any provisions of state, provincial, federal, or Mexican law and the out-of-service order complies with Section 395.13 or 396.9 of Title 49 of the Code of Federal Regulations.

SEC. 2. Section 6855 of the Vehicle Code is amended and renumbered to read:

34518. (a) A foreign motor carrier or foreign private motor carrier required to have a certificate of registration issued by the United States Secretary of the Department of Transportation pursuant to Part 368 (commencing with Section 368.1) of Title 49 of the Code of Federal Regulations shall not do any of the following:

(1) Operate in this state without the required certificate in the vehicle.

(2) Operate beyond the limitations or restrictions specified in the certificate as issued.

(3) Refuse to show the certificate upon request of a peace officer.

(4) Provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

(b) A motor carrier required to be registered with the United States Secretary of the Department of Transportation pursuant to Section 13902 of Title 49 of the United States Code or Part 390 (commencing with Section 390.1) of Title 49 of the Code of Federal Regulations shall not do any of the following:

(1) Operate in this state without the required registration.

(2) Operate beyond the limitations or restrictions specified in its registration.

(3) Operate in this state without the required operating authority.

(c) A violation of subdivision (a) or subdivision (b) is an infraction punishable by a fine of one thousand dollars ($1,000).

(d) A member of the Department of the California Highway Patrol may impound a vehicle operated in violation of subdivision (a) or subdivision (b) and its cargo, until the citation and all charges related to the impoundment are cleared. The impoundment charges are the responsibility of the vehicle's owner.

(e) (1) A motor carrier granted permanent operating authority pursuant to Part 368 (commencing with Section 368.1) of Title 49 of the Code of Federal Regulations shall not operate a vehicle on a highway, unless the vehicle is inspected by a Commercial Vehicle Safety Alliance-certified inspector every three months and displays a current safety inspection decal attesting to the successful completion of those inspections for at least three years after receiving permanent operating authority.

(2) Paragraph (1) does not apply to a motor carrier granted authority to operate solely in a commercial zone on the United States-Mexico International Border.

(f) As used in this section "limitations" or "restrictions" include definitions of "commercial zones," "municipality," "contiguous municipalities," "unincorporated area," and "terminal areas," in Part 372 (commencing with Section 372.101) of Title 49 of the Code of Federal Regulations.

SEC. 3. Section 8800 of the Vehicle Code is amended to read:

8800. (a) The department may suspend, cancel, or revoke the registration of a vehicle or a certificate of ownership, registration card, license plate, or permit under any of the following circumstances:

(1) When the department is satisfied that the registration or the certificate, card, plate, or permit was fraudulently obtained or erroneously issued.

(2) When the department determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

(3) When a registered vehicle has been dismantled or wrecked.

(4) When the department determines that the required fee has not been paid and the same is not paid upon reasonable notice and demand.

(5) When a registration card, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued.

(6) When the registration could have been refused when last issued or renewed.

(7) When the department determines that the owner or legal owner has committed an offense under Sections 20 (with respect to an application for the registration of a vehicle), 4000, 4159 to 4163, inclusive, 4454, 4456, 4461, 4463, 5202, 10750, and 10751, involving the registration or the certificate, card, plate, or permit to be suspended, canceled, or revoked.

(8) When the department is so authorized pursuant to any other provision of law.

(b) The department may suspend the registration of all vehicles registered in the name of a person, under any of the following circumstances:

(1) When the United States Secretary of the Department of Transportation or his or her designee issues a lawful out-of-service order pursuant to Title 49 of the Code of Federal Regulations.

(2) When the department suspends or revokes a motor carrier of property permit.

(3) When the Public Utilities Commission suspends or revokes operating authority or private registration.

(c) A suspension imposed pursuant to subdivision (b) shall remain in effect and a vehicle for which registration has been suspended shall not be registered in the name of the person until the department verifies that person's federal registration, federal operating authority, California operating authority, California private registration, or motor carrier of property permit is reissued.

SEC. 4. Section 16020 of the Vehicle Code is amended to read:

16020. (a) All drivers and all owners of a motor vehicle shall at all times be able to establish financial responsibility pursuant to Section 16021, and shall at all times carry in the vehicle evidence of the form of financial responsibility in effect for the vehicle.

(b) "Evidence of financial responsibility" means any of the following:

(1) A form issued by an insurance company or charitable risk pool, as specified by the department pursuant to Section 4000.37.

(2) If the owner is a self-insurer, as provided in Section 16052 or a depositor, as provided in Section 16054.2, the certificate of self-insurance or the assignment of deposit letter issued by the department.

(3) An insurance covering note or binder pursuant to Section 382 or 382.5 of the Insurance Code.

(4) A showing that the vehicle is owned or leased by, or under the direction of, the United States or a public entity, as defined in Section 811.2 of the Government Code.

(c) For purposes of this section, "evidence of financial responsibility" also may be obtained by a law enforcement officer and court personnel from an electronic reporting system when that system becomes available for use by law enforcement officers.

(d) For purposes of this section, "evidence of financial responsibility" also includes any of the following:

(1) The name of the insurance company and the number of an insurance policy or surety bond that was in effect at the time of the accident or at the time that evidence of financial responsibility is required to be provided pursuant to Section 16028, if that information is contained in the vehicle registration records of the department.

(2) The identifying motor carrier of property permit number issued by the Department of the California Highway Patrol to the motor carrier of property as defined in Section 34601, and displayed on the motor vehicle in the manner specified by the Department of the California Highway Patrol.

(3) The identifying number issued to the household goods carrier, passenger stage carrier, or transportation charter party carrier by the Public Utilities Commission and displayed on the motor vehicle in the manner specified by the commission.

(e) Evidence of financial responsibility does not include an identification number in paragraph (1), (2), or (3) of subdivision (d) if the carrier is currently suspended by the issuing agency for lack or lapse of insurance or other form of financial responsibility.

SEC. 5. Section 16502 of the Vehicle Code is amended to read:

16502. (a) An owner shall not use, or with his or her consent permit the use of, a vehicle used in the transportation of persons or property in the conduct of a business, without maintaining proof of financial responsibility as required by this chapter.

(b) A motor vehicle from another country in which there is no evidence of financial responsibility required pursuant to this chapter or Part 387 (commencing with Section 387.1) of Title 49 of the Code of Federal Regulations shall be denied entry into the state.

SEC. 6. Section 22651.4 of the Vehicle Code is amended to read:

22651.4. (a) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may impound a vehicle and its cargo pursuant to Section 34517.

(b) A member of the department may impound a vehicle and its cargo pursuant to Section 34518.

(c) A member of the department may store or impound a vehicle upon determination that the registrant of the vehicle or the driver of the vehicle has failed to pay registration, regulatory, fuel permit, or other fees, or has an outstanding warrant in a county in the state. The impoundment charges are the responsibility of the owner of the vehicle. The stored or impounded vehicle shall be released upon payment of those fees or fines or the posting of bail. The driver or owner of the vehicle may request a hearing to determine the validity of the seizure.

SEC. 7. Chapter 2 (commencing with Section 29200) of Division 13 of the Vehicle Code is repealed.

SEC. 8. Chapter 3 (commencing with Section 29800) of Division 13 of the Vehicle Code is repealed.

SEC. 9. Chapter 4 (commencing with Section 30800) of Division 13 of the Vehicle Code is repealed.

SEC. 10. Article 3 (commencing with Section 31500) of Chapter 5 of Division 13 of the Vehicle Code is repealed.

SEC. 11. Article 4 (commencing with Section 31510) of Chapter 5 of Division 13 of the Vehicle Code is repealed.

SEC. 12. Article 5 (commencing with Section 31520) of Chapter 5 of Division 13 of the Vehicle Code is repealed.

SEC. 13. Article 6 (commencing with Section 31530) of Chapter 5 of Division 13 of the Vehicle Code is repealed.

SEC. 14. Section 34500 of the Vehicle Code is amended to read:

34500. The department shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.

(b) Truck tractors.

(c) Buses, schoolbuses, school pupil activity buses, youth buses, farm labor vehicles, and general public paratransit vehicles.

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b), (c), or (d). This subdivision does not include camp trailers, trailer coaches, and utility trailers.

(f) A combination of a motortruck and a vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) A truck, or a combination of a truck and any other vehicle, transporting hazardous materials.

(h) Manufactured homes that, when moved upon the highway, are required to be moved pursuant to a permit as specified in Section 35780 or 35790.

(i) A park trailer, as described in Section 18009.3 of the Health and Safety Code, that, when moved upon a highway, is required to be moved pursuant to a permit pursuant to Section 35780.

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Department of Motor Vehicles, Public Utilities Commission, or United States Secretary of the Department of Transportation, but only for matters relating to hours of service and logbooks of drivers.

(k) A commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or a commercial motor vehicle of any gross vehicle weight rating towing a vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000 pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For purposes of this subdivision, the term "commercial motor vehicle" has the meaning defined in subdivision (b) of Section 15210.

SEC. 15. Section 34500.3 is added to the Vehicle Code, to read:

34500.3. (a) The department shall adopt rules and regulations that are designed to promote the safe operation of vehicles, regarding cargo securement standards. The regulations adopted pursuant to this section shall be consistent with the securement regulations adopted by the United States Department of Transportation in Part 393 (commencing with Section 393.1) of Title 49 of the Code of Federal Regulations, as those regulations now exist or are amended in the future.

(b) Regulations adopted pursuant to subdivision (a) do not apply to the transportation of a pole on a pole dolly by a public utility company or a local public agency engaged in the business of supplying electricity or telephone service, by the Department of Transportation, or by a licensed contractor in the performance of work for a public utility company, a local agency, or the Department of Transportation, when the transportation is between storage yards or between a storage yard and job location where the pole is to be used. However, no more than nine poles shall be transported on a dolly if any of those poles exceeds a length of 30 feet. If poles 30 feet or less are transported by a pole or pipe dolly, no more than 18 poles shall be transported. A pole shall be adequately secured when being transported on a dolly, to prevent shifting or spilling of a load.

(c) Regulations adopted pursuant to subdivision (a) do not apply to a farmer transporting his or her own hay or straw, incidental to his or her farming operation, if that transportation requires that the farmer use a highway, except that this subdivision does not relieve the farmer from loading and securing the hay or straw in a safe manner.

SEC. 16. Section 34507 of the Vehicle Code is amended to read:

34507. To assist the department in enforcing this division, a vehicle that is subject to this division and to the jurisdiction, control, and regulation of the Department of Motor Vehicles, the Public Utilities Commission, or the United States Secretary of the Department of Transportation shall have displayed prominently a distinctive identifying symbol as required by Section 34507.5.

SEC. 17. Section 34507.5 of the Vehicle Code is amended to read:

34507.5. (a) A motor carrier, as defined in Section 408, a motor carrier of property, and a for-hire motor carrier of property, as defined in Section 34601, shall obtain a carrier identification number from the department. Application for a carrier identification number shall be on a form furnished by the department. Information provided in connection with an application for a carrier identification number shall be updated by a motor carrier upon request from the department.

(b) The carrier identification number assigned to the motor carrier under whose operating authority or motor carrier permit the vehicle or combination of vehicles is being operated shall be displayed on both sides of each vehicle, or on both sides of at least one motor vehicle in each combination of the following vehicles:

(1) Each vehicle set forth in Section 34500.

(2) A motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating.

(3) Any other motortruck or motor vehicle used to transport property for compensation.

(c) A vehicle or combination of vehicles listed in subdivision (b) that is operated under a rental agreement with a term of not more than 30 calendar days shall meet all of the following requirements:

(1) Have displayed on both sides of each vehicle or on both sides of one of the vehicles in each combination of vehicles the name or trademark of the lessor.

(2) Have displayed on both sides of each vehicle or on both sides of one of the vehicles in each combination of vehicles any of the following numbers issued to the lessor:

(A) The carrier identification number issued by the United States Department of Transportation.

(B) A valid operating authority number.

(C) A valid motor carrier of property number.

(3) (A) Have in the vehicle or combination of vehicles a copy of the rental agreement entered into by the lessor and the vehicle operator.

(B) The rental agreement shall be available for inspection immediately upon the request of an authorized employee of the department, a regularly employed and salaried police officer or deputy sheriff, or a reserve police officer or reserve deputy sheriff listed pursuant to Section 830.6 of the Penal Code.

(C) If the rented vehicle or combination of vehicles is operated in conjunction with a commercial enterprise, the rental agreement shall include the operator's carrier identification number or motor carrier of property permit number.

(d) A vehicle or combination of vehicles that is in compliance with Section 390.21 of Title 49 of the Code of Federal Regulations shall be deemed to be in compliance with subdivision (c).

(e) This section does not apply to any of the following vehicles:

(1) A vehicle described in subdivision (f) of Section 34500, that is operated by a private carrier as defined in subdivision (d) of Section 34601, if the gross vehicle weight rating of the towing vehicle is 10,000 pounds or less, or the towing vehicle is a pickup truck, as defined in Section 471. This exception does not apply to a vehicle combination described in subdivision (k) of Section 34500.

(2) A vehicle described in subdivision (g) of Section 34500, that is operated by a private carrier as defined in subdivision (d) of Section 34601, if the hazardous material transportation does not require the display of placards pursuant to Section 27903, a license pursuant to Section 32000.5, or hazardous waste hauler registration pursuant to Section 25163 of the Health and Safety Code.

(3) A historical vehicle, as described in Section 5004, and a vehicle that displays special identification plates in accordance with Section 5011.

(4) An implement of husbandry as defined in Chapter 1 (commencing with Section 36000) of Division 16.

(5) A vehicle owned or operated by an agency of the federal government.

(6) A pickup truck, as defined in Section 471, and a two-axle daily rental truck with a gross vehicle weight rating of less than 26,001 pounds, when operated in noncommercial use.

(f) Subdivision (b) does not apply to the following:

(1) A vehicle that displays a valid identification number assigned by the United States Secretary of the Department of Transportation.

(2) A vehicle that is regulated by, and that displays a valid operating authority number issued by, the Public Utilities Commission, including a household goods carrier as defined in Section 5109 of the Public Utilities Code.

(3) A for-hire motor carrier of passengers.

(g) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of a size, shape, and color that it is readily legible during daylight hours from a distance of 50 feet.

(h) The carrier identification number for a company no longer in business, no longer operating with the same name, or no longer operating under the same operating authority, identification number, or motor carrier permit shall be removed before sale, transfer, or other disposal of a vehicle marked pursuant to this section.

SEC. 18. Section 34517 of the Vehicle Code is amended to read:

34517. (a) With respect to a commercial motor vehicle from another country, a person shall not operate the vehicle outside the boundaries of a designated commercial zone unless the required operating authority from the United States Secretary of the Department of Transportation has first been obtained.

(b) A violation of subdivision (a) is an infraction punishable by a fine of one thousand dollars ($1,000).

(c) Notwithstanding subdivision (b), a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall issue a citation for a violation of subdivision (a) to the driver of the vehicle and order the driver of the vehicle to return the vehicle to its country of origin. The peace officer may impound a vehicle cited pursuant to this section and its cargo until the citation and all charges related to the impoundment are cleared. The impoundment charges are the responsibility of the vehicle's owner.

(d) As used in this section, "designated commercial zone" means a commercial zone, as defined in Part 372 (commencing with Section 372.101) of Title 49 of the Code of Federal Regulations.

SEC. 19. Section 40303 of the Vehicle Code is amended to read:

40303. (a) Whenever a person is arrested for any of the offenses listed in subdivision (b) and the arresting officer is not required to take the person without unnecessary delay before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a 10 days' notice to appear, or be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made. The officer may require that the arrested person, if he or she does not have satisfactory identification, place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the 10 days' notice to appear when a 10 days' notice is provided. Except for law enforcement purposes relating to the identity of the arrestee, a person or entity shall not sell, give away, allow the distribution of, include in a database, or create a database with, this print.

(b) Subdivision (a) applies to the following offenses:

(1) Section 10852 or 10853, relating to injuring or tampering with a vehicle.

(2) Section 23103 or 23104, relating to reckless driving.

(3) Subdivision (a) of Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lights upon the vehicle pursuant to Section 2804, that is punishable as a misdemeanor.

(4) Subdivision (a) of Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to a brake test that is punishable as a misdemeanor.

(5) Subdivision (a) of Section 2800, relating to the refusal to submit vehicle and load to an inspection, measurement, or weighing as prescribed in Section 2802 or a refusal to adjust the load or obtain a permit as prescribed in Section 2803.

(6) Subdivision (a) of Section 2800, insofar as it relates to a driver who continues to drive after being lawfully ordered not to drive by a member of the Department of the California Highway Patrol for violating the driver's hours of service or driver's log regulations adopted pursuant to subdivision (a) of Section 34501.

(7) Subdivision (b), (c), or (d) of Section 2800, relating to a failure or refusal to comply with a lawful out-of-service order.

(8) Section 20002 or 20003, relating to duties in the event of an accident.

(9) Section 23109, relating to participating in a speed contest or exhibition of speed.

(10) Section 14601, 14601.1, 14601.2, or 14601.5, relating to driving while the privilege to operate a motor vehicle is suspended or revoked.

(11) When the person arrested has attempted to evade arrest.

(12) Section 23332, relating to persons upon vehicular crossings.

(13) Section 2813, relating to the refusal to stop and submit a vehicle to an inspection of its size, weight, and equipment.

(14) Section 21461.5, insofar as it relates to a pedestrian who, after being cited for a violation of Section 21461.5, is, within 24 hours, again found upon the freeway in violation of Section 21461.5 and thereafter refuses to leave the freeway after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(15) Subdivision (a) of Section 2800, insofar as it relates to a pedestrian who, after having been cited for a violation of subdivision (a) of Section 2800 for failure to obey a lawful order of a peace officer issued pursuant to Section 21962, is within 24 hours again found upon the bridge or overpass and thereafter refuses to leave after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(16) Section 21200.5, relating to riding a bicycle while under the influence of an alcoholic beverage or a drug.

(17) Section 21221.5, relating to operating a motorized scooter while under the influence of an alcoholic beverage or a drug.

(c) (1) A person contesting a charge by claiming under penalty of perjury not to be the person issued the notice to appear may choose to submit a right thumbprint, or a left thumbprint if the person has a missing or disfigured right thumb, to the issuing court through his or her local law enforcement agency for comparison with the one placed on the notice to appear. A local law enforcement agency providing this service may charge the requester no more than the actual costs. The issuing court may refer the thumbprint submitted and the notice to appear to the prosecuting attorney for comparison of the thumbprints. When there is no thumbprint or fingerprint on the notice to appear, or when the comparison of thumbprints is inconclusive, the court shall refer the notice to appear or copy thereof back to the issuing agency for further investigation, unless the court finds that referral is not in the interest of justice.

(2) Upon initiation of the investigation or comparison process by referral of the court, the court shall continue the case and the speedy trial period shall be tolled for 45 days.

(3) Upon receipt of the issuing agency's or prosecuting attorney's response, the court may make a finding of factual innocence pursuant to Section 530.6 of the Penal Code if the court determines that there is insufficient evidence that the person cited is the person charged and shall immediately notify the Department of Motor Vehicles of its

determination. If the Department of Motor Vehicles determines the citation or citations in question formed the basis of a suspension or revocation of the person's driving privilege, the department shall immediately set aside the action.

(4) If the prosecuting attorney or issuing agency fails to respond to a court referral within 45 days, the court shall make a finding of factual innocence pursuant to Section 530.6 of the Penal Code, unless the court finds that a finding of factual innocence is not in the interest of justice.

(5) The citation or notice to appear may be held by the prosecuting attorney or issuing agency for future adjudication should the arrestee who received the citation or notice to appear be found.

SEC. 20. 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 289

An act to amend Sections 15101, 15120, 15266, 15341, and 15343 of the Education Code, and to amend Sections 9400 and 9402 of, and to add Section 8004 to, the Elections Code, relating to elections.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

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

SECTION 1. Section 15101 of the Education Code is amended to read:

15101. Notwithstanding any other law, an election may not be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, or on an established election date pursuant to Section 1000 or 1500 of the Elections Code.

SEC. 2. Section 15120 of the Education Code is amended to read:

15120. (a) An election held for purposes of this chapter shall be conducted as provided in Chapter 3 (commencing with Section 5300)

of Part 4, except as otherwise provided in Sections 15100 to 15126, inclusive.

(b) If an election is held for purposes of this chapter in a school district, no other election may be held for purposes of this chapter in that district for a period of 90 days after that election.

SEC. 3. Section 15266 of the Education Code is amended to read:

15266. (a) As an alternative to authorizing and issuing bonds pursuant to Chapter 1 (commencing with Section 15100) or Chapter 2 (commencing with Section 15300), the governing board of a school district, community college district, or a school facilities improvement district may decide, pursuant to a two-thirds vote and subject to Section 15100 or 15302, as appropriate, to pursue the authorization and issuance of bonds pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution. An election may only be ordered on the question of whether bonds of a school district, community college district, or a school facilities improvement district shall be issued and sold pursuant to subdivision (b) of Section 18 of Article XVI of the California Constitution at a primary or general election, a regularly scheduled local election at which all of the electors of the school district, community college district, or school facilities improvement district, as appropriate, are entitled to vote, or a statewide special election.

(b) Upon adopting a resolution to incur bonded indebtedness pursuant to subdivision (b) of Section 18 of Article XVI of the California Constitution and after the question has been submitted to the voters, if approved at the election, the bonds shall be issued pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and this chapter, and the governing board may not, regardless of the number of votes cast in favor of the bond, subsequently proceed exclusively under Chapter 1 (commencing with Section 15100) or under Chapter 2 (commencing with Section 15300), as appropriate. Where not inconsistent, the provisions of Chapter 1 (commencing with Section 15100) or Chapter 2 (commencing with Section 15300), as appropriate, shall apply to this chapter.

SEC. 4. Section 15341 of the Education Code is amended to read:

15341. Notwithstanding any other law, an election may not be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, or on an established election date pursuant to Section 1000 or 1500 of the Elections Code.

SEC. 5. Section 15343 of the Education Code is amended to read:

15343. (a) Except as otherwise specified in this chapter, an election held for purposes of this chapter shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4.

(b) If an election is held for purposes of this chapter in a school facilities improvement district, no other election may be held for purposes of this chapter in that district for a period of 90 days after that election.

SEC. 6. Section 8004 is added to the Elections Code, to read:

8004. (a) In the event that no candidate files for a party's nomination for any partisan office that would appear on the ballot in a county or a political subdivision within that county, the elections official shall do both of the following:

(1) Refrain from printing a partisan ballot for that party in that county or a political subdivision within that county in which there are no candidates for that political party's nomination.

(2) Send notification to those voters registered as affiliated with that party that there were no qualified candidates for the partisan office for which the voter is eligible to vote, together with a nonpartisan ballot, unless, within 10 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted is filed with the elections official and signed by 10 percent of the registered voters, or 100 registered voters, whichever is less, affiliated with that party within the county or a political subdivision within that county, whichever is applicable.

(b) A separate petition shall be filed for each specific office for which a write-in campaign is to be conducted.

SEC. 7. Section 9400 of the Elections Code is amended to read:

9400. Notwithstanding any other provision of law, this chapter applies to all bond issues proposed by a county, city and county, city, district, or other political subdivision, or by any agency, department, or board thereof, the security for which constitutes a lien on the property for ad valorem taxes within the jurisdiction and the proposal for which is required to be submitted to the voters for approval.

SEC. 8. Section 9402 of the Elections Code is amended to read:

9402. All official materials, including any ballot pamphlet prepared, sponsored, or distributed by the jurisdiction that has proposed the bond issue or that is financed in whole or part by funds furnished by that jurisdiction, directed at or including a bond issue proposal, but excluding a notice of election required by law to be posted or published, shall contain a statement of the tax rate data specified in Section 9401.

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 290

An act to add Section 12810.3 to, and to add and repeal Section 23123 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 2006. Filed with Secretary of State September 15, 2006.]

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

SECTION 1. This act shall be known and may be cited as the California Wireless Telephone Automobile Safety Act of 2006.

SEC. 2. The Legislature finds and declares all of the following:

(a) There are significant safety benefits associated with the availability of wireless communication technologies, including, but not limited to, providing assistance that helps save lives and minimizes property damage.

(b) On a daily basis, California drivers make thousands of wireless telephone emergency 911 calls.

(c) The availability of wireless telephones in motor vehicles allows motorists to report accidents, fires, naturally occurring life-threatening situations, including, but not limited to, rock slides and fallen trees, other dangerous road conditions, road rage, dangerous driving, criminal behavior, including drunk driving, and stranded motorist situations.

(d) There is growing public concern regarding the safety implications of the widespread practice of using hand-held wireless telephones while operating motor vehicles.

(e) It is in the best interests of the health and welfare of the citizens of the state to enact one uniform motor vehicle wireless telephone use law that establishes statewide safety guidelines for use of wireless telephones while operating a motor vehicle.

SEC. 3. Section 12810.3 is added to the Vehicle Code, to read:

12810.3. (a) Notwithstanding subdivision (f) of Section 12810, a violation point shall not be given for a conviction of a violation of subdivision (a) of Section 23123.

(b) The section shall become operative on July 1, 2008.

SEC. 4. Section 23123 is added to the Vehicle Code, to read:

23123. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and

configured to allow hands-free listening and talking, and is used in that manner while driving.

(b) Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this section is an infraction punishable by a base fine of twenty dollars ($20) for a first offense and fifty dollars ($50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person when using a digital two-way radio that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, and the person is driving one of the following vehicles:

(1) (A) A motor truck, as defined in Section 410, or a truck tractor, as defined in Section 655, that requires either a commercial class A or class B driver's license to operate.

(B) The exemption under subparagraph (A) does not apply to a person driving a pickup truck, as defined in Section 471.

(2) An implement of husbandry that is listed or described in Chapter 1 (commencing with Section 36000) of Division 16.

(3) A farm vehicle that is exempt from registration and displays an identification plate as specified in Section 5014 and is listed in Section 36101.

(4) A commercial vehicle, as defined in Section 260, that is registered to a farmer and driven by the farmer or an employee of the farmer, and is used in conducting commercial agricultural operations, including, but not limited to, transporting agricultural products, farm machinery, or farm supplies to, or from, a farm.

(5) A tow truck, as defined in Section 615.

(f) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125.

(g) This section does not apply to a person while driving a motor vehicle on private property.

(h) This section shall become operative on July 1, 2008, and shall remain in effect only until July 1, 2011, and, as of July 1, 2011, is repealed.

SEC. 5. Section 23123 is added to the Vehicle Code, to read:

23123. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.

(b) Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this sections is an infraction punishable by a base fine of twenty dollars ($20) for a first offense and fifty dollars ($50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125.

(f) This section does not apply to a person while driving a motor vehicle on private property.

(g) This section shall become operative on July 1, 2011.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 291

An act to add Sections 1452, 1453, 1454, 1455, 1456, and 1457 to, and to repeal and add Sections 1450 and 1451 of, the Military and Veterans Code, relating to veterans' cemeteries.

[Approved by Governor September 15, 2006. Filed with Secretary of State September 15, 2006.]

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

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

(a) In 1917, the United States Military established Fort Ord as a cavalry post when it purchased 15,000 acres of land in the northwestern portion of Monterey County.

(b) Fort Ord was declared a permanent Army post in 1940, and became a valued military training facility as its geography and proximity to the coast proved useful in helping to prepare the United States military for its involvement in World War II. Throughout its history, Fort Ord post was home to a succession of infantry divisions and served as a center for basic and advanced training.

(c) Since its inception, Fort Ord became an integral part of the Monterey Bay area's local and regional economy and contributed greatly to its cultural identity. In 1991, however, Fort Ord was announced for closure by the United States Base Realignment and Closure Commission. Due to its prominence in the Monterey Bay area, the scheduled closure had a significant impact on the Monterey Bay area.

(d) Prior to its closure on September 30, 1994, the Legislature established the Fort Ord Reuse Authority (FORA) to facilitate Fort Ord's conversion from military to civilian use. As a part of the Monterey Bay area's efforts to honor the lasting impact of Fort Ord and the legacy of the men and women who served there, FORA set aside 204 acres for the development of a Central Coast Veterans' Cemetery at Fort Ord.

(e) Since 1994, local and statewide veterans, community groups, local agencies, and elected officials attempted to get the United States Department of Veterans Affairs to develop a Central Coast Veterans' Cemetery at Fort Ord. Current federal regulations, however, preclude the development of a national veterans' cemetery within 75 miles of another national veterans' cemetery, and require that there be at least 170,000 veterans within that area. Since the former Fort Ord is within 75 miles of the San Joaquin Valley National Cemetery in Gustine, and the veterans' population of the Monterey Bay region is currently estimated to be approximately 120,000, a national veterans' cemetery at Fort Ord is not possible.

(f) A viable alternative to a national cemetery for veterans in the Fort Ord area would be the establishment of a state veterans' cemetery. Under the federal Veterans Affairs State Cemetery Grants Program, the federal government will fund up to 100 percent of the cost of establishing, expanding, or improving state veterans' cemeteries, including the acquisition of initial operating equipment, if the state agrees to cover the administrative and oversight costs in perpetuity.

(g) In 2000, the state began efforts to consider the creation of a state Central Coast Veterans' Cemetery at Fort Ord when, then, Governor Davis signed Senate Bill 1815, which required the Department of

Veterans Affairs, in coordination with Monterey County, to develop a master plan for a state Central Coast Veterans' Cemetery at Fort Ord.

(h) Subsequent legislative efforts to use the master development plan to apply to the State Cemetery Grants Program have not been successful due to the ongoing administrative and oversight fiscal impact a state veterans' cemetery at Fort Ord would have on the state's General Fund.

(i) Recognizing that a national veterans' cemetery at Fort Ord has proven to be difficult under current federal regulations, the possibility of creating a state-operated veterans' cemetery at Fort Ord is enhanced if it does not present an ongoing cost impact to the state.

(j) In order to recognize the lasting impact and legacy of the former Fort Ord and the service men and women who served there, establishing a financing mechanism, independent of the state's General Fund, to fund the ongoing administrative and oversight costs of a state veterans' cemetery would greatly increase the ability for the Department of Veterans Affairs to apply to the federal Veterans Affairs State Cemetery Grants Program.

SEC. 2. Section 1450 of the Military and Veterans Code is repealed.

SEC. 3. Section 1450 is added to the Military and Veterans Code, to read:

1450. For purposes of this chapter, the following definitions apply:

(a) "Administrative and oversight costs" means costs incurred by the department for the maintenance of the California Central Coast State Veterans' Cemetery at Fort Ord including, but not limited to, personnel costs, the opening and closing of graves, the interment of remains, committal service coordination, groundskeeping, landscaping, general maintenance, and janitorial services.

(b) "Department" means the Department of Veterans Affairs.

(c) "Endowment Fund" means the California Central Coast State Veterans' Cemetery at Fort Ord Endowment Fund.

(d) "Operations Fund" means the California Central Coast State Veterans' Cemetery at Fort Ord Operations Fund.

(e) "Veterans' cemetery" means the California Central Coast State Veterans' Cemetery at Fort Ord.

SEC. 4. Section 1451 of the Military and Veterans Code is repealed.

SEC. 5. Section 1451 is added to the Military and Veterans Code, to read:

1451. (a) The California Central Coast State Veterans' Cemetery at Fort Ord Endowment Fund is hereby created in the State Treasury. Moneys in the Endowment Fund shall be allocated, upon appropriation by the Legislature, to the department for the annual administrative and oversight costs of the veterans' cemetery, pursuant to Sections 1453 and 1454, and to generate funding through interest for that cemetery.

(b) (1) Moneys in the fund shall first be invested with the goal of achieving capital appreciation to create a balance sufficient to generate ongoing earnings to cover the estimated annual oversight and maintenance costs associated with the veterans' cemetery pursuant to Section 1453.

(2) Upon the determination of the Controller that the Endowment Fund balance has attained the goal established in paragraph (1), moneys in the fund shall be invested to generate earnings to fund annual oversight and maintenance costs associated with the veterans' cemetery.

(c) The Endowment Fund may consist of donations from public and private entities, partnerships between public and private entities, fees, and transfers from the state General Fund as may be specified by law.

(d) To the extent possible, donations made in-kind to the Endowment Fund shall be monetized so as to offset the ongoing administrative and oversight costs under Sections 1452 and 1453.

(e) Earnings generated by the Endowment Fund shall be retained by the fund.

(f) Moneys deposited in the Endowment Fund are exempt from the requirements of Sections 11270 through 111277 of the Government Code.

(g) Moneys in the Endowment Fund shall be invested by the Treasurer, after consultation with the department, in a manner that best meets the goals of the fund.

SEC. 6. Section 1452 is added to the Military and Veterans Code, to read:

1452. (a) On or before July 1, 2007, and annually thereafter, the Controller, after consultation with the department, shall report to the Assembly and Senate Committees on Veterans Affairs, Monterey County, the City of Seaside, and the Fort Ord Reuse Authority on the status of the Endowment Fund, the amount of interest and investment earnings generated by the Endowment Fund, and the estimated amount of additional principal needed to generate annual interest revenue that will sufficiently cover the estimated annual administrative and oversight costs.

(b) The estimated annual administrative and oversight costs shall be developed annually by the department and provided to the Controller for purposes of the report required by subdivision (a) by no later than June 15 of each year.

SEC. 7. Section 1453 is added to the Military and Veterans Code, to read:

1453. (a) (1) Upon the determination of the Controller, after consultation with the Secretary of Veterans Affairs, that the Endowment Fund has adequate principal to annually yield sufficient investment

earnings, from the date of the determination, to cover the annual administrative and oversight costs over the next 10 years and to fund the estimated costs of developing and submitting the State Veterans' Cemetery Grant Program application, the department shall develop and submit a State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs for the establishment of a veterans' cemetery.

(2) The Controller, upon appropriation by the Legislature, shall transfer moneys from the Endowment Fund to the Operations Fund in an amount equal to the estimated costs of developing and submitting the State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs.

(b) The Secretary of Veterans Affairs shall submit the State Veterans' Grant Program application to the United States Department of Veterans Affairs within six months of the Controller's determination pursuant to subdivision (a). The Secretary of Veterans Affairs is authorized to act as the official representative of the state in connection with the State Veterans' Cemetery Grant Program application, including providing the United States Department of Veterans Affairs throughout the application process with all necessary assurances that additional information shall be provided when required. The Secretary of Veterans Affairs shall have final approval of all aspects of the cemetery design and operation.

(c) If awarded, the moneys received from the State Veterans' Cemetery Grant Program shall be used to reimburse the Endowment Fund for the costs of developing and submitting the State Veterans' Cemetery Grant Program application to the United States Department of Veterans Affairs and to fund 100 percent of the design, development, construction, and equipping of the veterans' cemetery.

SEC. 8. Section 1454 is added to the Military and Veterans Code, to read:

1454. (a) The Central Coast Veterans' Cemetery Master Development Fund is hereby renamed the California Central Coast State Veterans' Cemetery at Fort Ord Operations Fund. Moneys in the Operations Fund may be transferred, upon appropriation by the Legislature, from the Endowment Fund to the Operations Fund for expenditure by the department, solely for the annual administrative and oversight costs of the veterans' cemetery.

(b) (1) The Controller shall reserve an amount, not to exceed 20 percent of the amount allocated pursuant to subdivision (a), in the Operations Fund, which shall be used solely as a reserve for unforeseen administrative and oversight costs.

(2) For purposes of this subdivision, "unforeseen administrative and oversight costs" means any costs that could not have been reasonably

anticipated by the department when preparing its estimate of annual administrative and oversight costs and that are needed to carry out the purposes of this chapter.

SEC. 9. Section 1455 is added to the Military and Veterans Code, to read:

1455. (a) Subsequent to the department's submission of the State Veterans' Cemetery Grant Program application, pursuant to Section 1453, the department shall adopt regulations to specify the eligibility requirements for interment and the appropriate fees to be charged for interment or burial of spouses and children of honorably discharged veterans in the veterans' cemetery.

(b) Those eligible for interment are all honorably discharged veterans and their spouses and children.

(c) All fees received pursuant to subdivision (a) shall be deposited in the Endowment Fund created pursuant to Section 1451.

SEC. 10. Section 1456 is added to the Military and Veterans Code, to read:

1456. (a) Proposals for the construction, placement, or donation of monuments and memorials, excluding headstones, to the veterans' cemetery shall be subject to review by an advisory committee comprised of the veterans' cemetery administrator, representatives from Monterey County, representatives from the City of Seaside, local veterans' service organizations, and others, as approved by the Secretary of Veterans Affairs.

(b) All proposals for the construction, placement, or donation of monuments and memorials to the veterans' cemetery shall be subject to the approval of the Secretary of Veterans Affairs.

(c) The department shall adopt regulations for the policies and procedures to be followed with respect to the design, placement, and approval of monuments and memorials proposed to be placed on veterans' cemetery grounds.

SEC. 11. Section 1457 is added to the Military and Veterans Code, to read:

1457. (a) Notwithstanding Section 11005 of the Government Code, the veterans' cemetery administrator may, subject to the approval of the Secretary of Veterans Affairs, accept donations of personal property, including cash or other gifts, to be used for the maintenance or beautification of the veterans' cemetery.

(b) Donations in the form of cash shall be deposited in the Endowment Fund and shall be expended for the maintenance and repair of the veterans' cemetery or for a specified veterans' cemetery maintenance

or beautification project designated by the donor, upon appropriation by the Legislature.

CHAPTER 292

An act to amend Sections 71204.7, 71207, 71211, 71216, 71271, 72421, 72423, and 72440 of, and to add Section 71205.3 to, the Public Resources Code, and to repeal Section 44008 of the Revenue and Taxation Code, relating to vessels.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. This act shall be known, and may be cited, as the Coastal Ecosystems Protection Act.

SEC. 2. Section 71204.7 of the Public Resources Code is amended to read:

71204.7. (a) On or before July 1, 2005, the commission, in consultation with the United States Coast Guard, shall adopt regulations governing the evaluation and approval of shipboard experimental ballast water treatment systems.

(b) The regulations shall include criteria for the development of a formal application package to use those systems.

(c) (1) If an owner or operator of a vessel applies to install an experimental ballast water treatment system, and the commission approves that application on or before January 1, 2008, the commission shall deem the system to be in compliance with any future treatment standard adopted, for a period not to exceed five years from the date that the interim performance standards adopted pursuant to paragraphs (1) and (2) of subdivision (a) of Section 71205.3 would apply to that vessel.

(2) The commission may rescind its approval of the system at any time if the commission, in consultation with the board and the United States Coast Guard, and after an opportunity for administrative appeal with the executive officer of the commission, determines that the system has not been operated in accordance with conditions in the agreed upon application package, or that there exists a serious deficiency in performance, human safety, or environmental soundness relative to anticipated performance, or that the applicant has failed to provide the commission with required test results and evaluations.

(d) The commission shall not approve an experimental ballast water treatment system unless the owner or operator demonstrates that the system has significant potential to improve upon the ability of existing systems to kill, inactivate, or otherwise remove nonindigenous species from ballast water.

(e) The commission shall disseminate to the public the test results and evaluations regarding experimental ballast water treatment systems described in this section.

SEC. 3. Section 71205.3 is added to the Public Resources Code, to read:

71205.3. (a) On or before January 1, 2008, the commission shall adopt regulations that do all of the following:

(1) Except as provided otherwise in Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table x-1 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharges in California Waters, as approved by the commission on January 26, 2006.

(2) Except as provided otherwise in Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to comply with the implementation schedule for the interim performance standards for the discharge of ballast water in accordance with Table x-2 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharges in California Waters, as approved by the commission on January 26, 2006.

(3) Notwithstanding Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to meet the final performance standard for the discharge of ballast water of zero detectable for all organism size classes by 2020, as approved by the commission on January 26, 2006.

(b) On or before January 1, 2008, for the interim performance standards specified in paragraph (1) of subdivision (a) that have to be complied with in 2009, as specified in paragraph (2) of subdivision (a), and not less than 18 months prior to the scheduled compliance date specified in paragraph (2) of subdivision (a) for each subsequent class and the date for implementation of the final performance standard, as specified in paragraph (3) of subdivision (a), the commission, in consultation with the State Water Resources Control Board, the United States Coast Guard, and the advisory panel described in subdivision (b) of Section 71204.9, shall prepare, or update, and submit to the Legislature a review of the efficacy, availability, and environmental impacts,

including the effect on water quality, of currently available technologies for ballast water treatment systems. If technologies to meet the performance standards are determined in a review to be unavailable, the commission shall include in that review an assessment of why the technologies are unavailable.

SEC. 4. Section 71207 of the Public Resources Code is amended to read:

71207. (a) This division describes the state program to regulate the discharge or release of ballast water and other vectors of nonindigenous species from vessels regulated pursuant to this division. Prior to January 1, 2010, a state agency, board, commission, or department shall not impose a requirement, pertaining to the discharge or release of ballast water and other vectors of nonindigenous species from a vessel regulated pursuant to this division, that is different from the requirements set forth in this division, unless that action is mandated by federal law.

(b) Nothing in this division restricts a state or local agency, board, commission, or department, or a subdivision of one of those entities, from enforcing this division, if the total fines imposed by those entities do not exceed the amount of the fines set forth in Section 71216.

(c) A person who violates this division is subject to civil and criminal liability in accordance with Chapter 5 (commencing with Section 71216).

(d) The commission may require a vessel operating in violation of this division to depart the waters of the state and exchange, treat, or otherwise manage the ballast water at a location determined by the commission, unless the master determines that the departure or exchange would threaten the safety or stability of the vessel, its crew, or its passengers.

SEC. 5. Section 71211 of the Public Resources Code is amended to read:

71211. (a) (1) The Department of Fish and Game, in consultation with the commission and the United States Coast Guard, shall collect data necessary to establish and maintain an inventory of the location and geographic range of nonindigenous species populations in the coastal and estuarine waters of the state that includes open coastal waters and bays and estuaries. In particular, data shall be collected that does both of the following:

(A) Supplements the existing baseline of nonindigenous species previously developed pursuant to this section, by adding data from investigations of intertidal and nearshore subtidal habitats along the open coast.

(B) Monitors the coastal and estuarine waters of the state, including, but not limited to, habitats along the open coast, for new introductions

of nonindigenous species or spread of existing nonindigenous species populations.

(2) Whenever possible, the study shall utilize appropriate, existing data, including data from previous studies made pursuant to this section. The Department of Fish and Game shall make the inventory and accompanying analysis available to the public through the Internet on or before January 1, 2007, and annually shall provide to the public an update of that inventory.

(b) (1) The Department of Fish and Game, in consultation with the commission and the United States Coast Guard, shall assess the effectiveness of the ballast water controls implemented pursuant to this division by comparing the status and establishment of nonindigenous species populations, as determined from the data collected pursuant to subdivision (a), with the baseline data collected pursuant to this division and submitted in a report to the Legislature in 2003.

(2) Whenever possible, this research shall utilize appropriate, existing data.

(3) The Department of Fish and Game shall submit a report presenting its assessment to the Legislature and the public on or before January 1, 2009, and every three years thereafter.

(c) Information generated by the research conducted pursuant to this section shall be of the type and in a format useful for subsequent studies and reports undertaken for any of the following purposes:

(1) The determination of alternative discharge zones.

(2) The identification of environmentally sensitive areas to be avoided for uptake or discharge of ballast water.

(3) The long-term effectiveness of discharge control measures.

(4) The determination of potential risk zones where uptake or discharge of ballast water shall be prohibited.

(5) The rate and risk of establishment of nonindigenous species in the coastal waters of the state, and resulting impacts.

SEC. 6. Section 71216 of the Public Resources Code is amended to read:

71216. (a) Except as provided in subdivision (b) or (c), a person who intentionally or negligently fails to comply with the requirements of this division may be liable for an administrative civil penalty in an amount that shall not exceed twenty-seven thousand five hundred dollars ($27,500) for each violation. Each day of a continuing violation constitutes a separate violation.

(b) A person who fails to comply with the reporting requirements set forth in Section 71205 may be liable for an administrative civil penalty in an amount that shall not exceed twenty-seven thousand five hundred

dollars ($27,500) per violation. Each day of a continuing violation constitutes a separate violation.

(c) A person who, knowingly and with intent to deceive, falsifies a ballast water control report form, or knowingly and with intent to deceive, tampers with or disables a system for controlling the release of nonindigenous species, required by this division, may be liable for an administrative civil penalty in an amount that shall not exceed twenty-seven thousand five hundred dollars ($27,500) per violation. Each day of a continuing violation constitutes a separate violation.

(d) The executive officer of the commission may issue a complaint to a person on whom civil liability may be imposed pursuant to this division. The complaint shall allege the facts or failures to act that constitute a basis for liability and the amount of the proposed civil liability. The complaint shall be served by personal service or certified mail and shall inform the person served of the right to a hearing. A person served with a complaint pursuant to this subdivision may, within 30 days after service of the complaint, request a hearing by filing with the executive officer a notice of defense, as described in Section 11506 of the Government Code. A notice of defense is deemed to be filed within the 30-day period if it is postmarked within the 30-day period. If a hearing is requested by the person, it shall be conducted within 30 days after the executive officer receives the notice of defense. If no notice of defense is filed within 30 days after service of the complaint, the executive officer shall issue an order setting liability in the amount proposed in the complaint unless the executive officer and the person have entered into a settlement agreement, in which case the executive officer shall issue an order setting liability in the amount specified in the settlement agreement. If the person has not filed a notice of defense or if the executive officer and the person have entered into a settlement agreement, the order shall not be subject to review by a court or agency.

(e) A hearing required pursuant to this section shall be conducted by an independent hearing officer, in accordance with the procedures specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise specified in this section. In making a determination, the hearing officer shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health and safety of the environment, and the violator's ability to pay the proposed civil penalty. After conducting a hearing required pursuant to this section, the hearing officer shall, within 30 days after the case is submitted, issue a decision, including an order setting the amount, if any, of the civil penalty to be imposed.

(f) An order setting civil liability and issued pursuant to this section is effective and final upon issuance. The violator shall pay any penalty within 30 days of service, unless he or she seeks judicial review pursuant to subdivision (g), in which case he or she shall pay any penalty within 30 days of service of the court's order setting civil liability. A copy of the order shall be served by personal service or by certified mail upon the person served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(g) Within 30 days after service of a copy of a decision issued by the hearing officer that the person served is liable for a civil penalty, a person so served may file a petition for writ of mandate for review of the decision pursuant to Section 11523 of the Government Code. A person who fails to file the petition within the 30-day period shall not challenge the reasonableness or validity of a decision or order of the hearing officer in any judicial proceedings brought to enforce the decision or order or for other remedies. Except as otherwise provided in this section, Section 1094.5 of the Code of Civil Procedure shall govern a proceeding conducted pursuant to this subdivision. In a proceeding pursuant to this subdivision, the court shall uphold the decision of the hearing officer if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this act or the accrual of any penalties assessed pursuant to this act. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) An order for administrative penalties entered pursuant to this section shall be subject to interest at the legal rate from the filing date of the complaint as specified in subdivision (d).

(i) A provision of this chapter or a ruling of the executive officer shall not be construed to limit, abridge, or supersede the power of the Attorney General, at the request of the executive officer, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin a violation of this division, seek necessary remedial action by a person who violates this division, or seek civil and criminal penalties against a person who violates this division.

(j) In lieu of a complaint pursuant to subdivision (d) to impose administrative civil penalties set forth in subdivisions (a), (b), and (c), the Attorney General, at the request of the commission, may bring an action in superior court, in the name of the people of the State of California, to enjoin a violation of this division, seek necessary remedial action by a person who violates this division, or seek civil penalties in the amounts set forth in subdivisions (a), (b), and (c).

SEC. 7. Section 71271 of the Public Resources Code is amended to read:

71271. If a federal program and regulations similar to the program and regulations developed pursuant to this division are established and implemented, the commission shall submit a report to the Legislature within eight months of the implementation of the federal program. The report shall compare the federal program with the program described in this division and make a finding as to the federal program's relative effectiveness in preventing the introduction of marine invasive species from vessels visiting California. The commission shall recommend repeal of the program described in this division only if it finds that the federal program is equally or more effective at implementing and funding effective controls on the release of aquatic invasive species into the waters of the state than the program described in this division.

SEC. 8. Section 72421 of the Public Resources Code is amended to read:

72421. (a) The owner or operator shall notify the Office of Emergency Services immediately, but not longer than 30 minutes, after discovery of any of the following:

(1) A large passenger vessel release of graywater into the marine waters of the state.

(2) Until January 1, 2010, a large passenger vessel release of sewage into the marine waters of the state or a marine sanctuary.

(3) A large passenger vessel or oceangoing ship release of hazardous waste, other waste, sewage sludge, or oily bilgewater into the marine waters of the state or a marine sanctuary.

(4) An oceangoing ship with sufficient holding tank capacity release of sewage or graywater into the marine waters of the state or a marine sanctuary.

(b) The owner or operator shall include all of the following in the notification required pursuant to subdivision (a):

(1) Date of the release.

(2) Time of the release.

(3) Location, by latitude and longitude, of the release.

(4) Volume of the release.

(5) Source of the release.

(6) Remedial action taken to prevent future releases.

(c) The Office of Emergency Services shall transmit the notification required by subdivision (a) to the board and the Department of Fish and Game immediately, but not longer than 30 minutes, after receiving the notification.

SEC. 9. Section 72423 of the Public Resources Code is amended to read:

72423. An oceangoing ship with sufficient holding tank capacity and capability for transfer shall either hold on board or shall transfer sewage

and graywater to a pumpout facility, if that facility is available and accessible for the oceangoing ship where the ship is docked, and shall not discharge sewage or graywater within the marine waters of the state.

SEC. 10. Section 72440 of the Public Resources Code, as amended by Section 21 of Chapter 588 of the Statutes of 2005, is amended to read:

72440. (a) (1) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage or sewage sludge from large passenger vessels, sewage from oceangoing ships with sufficient holding tank capacity, and sewage sludge from oceangoing ships, into the marine waters of the state or to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into marine sanctuaries, as described in Section 72420 and subdivision (a) of Section 72420.1. If the board determines that application is necessary for either sewage or sewage sludge, or both, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of sewage or sewage sludge, or both, as necessary, from large passenger vessels, sewage from oceangoing ships with sufficient holding tank capacity, and sewage sludge from oceangoing ships, into the marine waters of the state and, if necessary, to authorize the state to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into marine sanctuaries.

(2) It is not the Legislature's intent to establish for the marine waters of the state a no discharge zone for sewage from all vessels, but only for a class of vessels.

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels and oceangoing ships, in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 11. Section 44008 of the Revenue and Taxation Code is repealed.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction,

within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 293

An act to amend Sections 13225, 13267, 13268, and 13323 of the Water Code, relating to water.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 13225 of the Water Code is amended to read:

13225. Each regional board, with respect to its region, shall do all of the following:

(a) Coordinate with the state board and other regional boards, as well as other state agencies with responsibility for water quality, with respect to water quality control matters, including the prevention and abatement of water pollution and nuisance.

(b) Encourage and assist in waste disposal programs, as needed and feasible, and upon application of any person, advise the applicant of the condition to be maintained in any disposal area or receiving waters into which the waste is being discharged.

(c) Require as necessary any state or local agency to investigate and report on any technical factors involved in water quality control or to obtain and submit analyses of water; provided that the burden, including costs, of such reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained therefrom.

(d) Request enforcement by appropriate federal, state and local agencies of their respective water quality control laws.

(e) Report rates of compliance with the requirements of this division.

(f) Recommend to the state board projects which the regional board considers eligible for any financial assistance which may be available through the state board.

(g) Report to the state board and appropriate local health officer any case of suspected contamination in its region.

(h) File with the state board, at its request, copies of the record of any official action.

(i) Take into consideration the effect of its actions pursuant to this chapter on the California Water Plan adopted or revised pursuant to

Division 6 (commencing with Section 10000) and on any other general or coordinated governmental plan looking toward the development, utilization, or conservation of the water resources of the state.

(j) Encourage coordinated regional planning and action for water quality control.

(k) In consultation with the state board, identify and post on the Internet a summary list of all enforcement actions undertaken by that regional board and the dispositions of those actions, including any fines assessed. This list shall be updated at least quarterly.

SEC. 2. Section 13267 of the Water Code is amended to read:

13267. (a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

(b) (1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

(2) When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

(c) In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure

set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.

(d) The state board or a regional board may require any person, including a person subject to a waste discharge requirement under Section 13263, who is discharging, or who proposes to discharge, wastes or fluid into an injection well, to furnish the state board or regional board with a complete report on the condition and operation of the facility or injection well, or any other information that may be reasonably required to determine whether the injection well could affect the quality of the waters of the state.

(e) As used in this section, "evidence" means any relevant evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in a civil action.

(f) The state board may carry out the authority granted to a regional board pursuant to this section if, after consulting with the regional board, the state board determines that it will not duplicate the efforts of the regional board.

SEC. 3. Section 13268 of the Water Code is amended to read:

13268. (a) (1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).

(2) Any person who knowingly commits any violation described in paragraph (1) is subject to criminal penalties pursuant to subdivision (e).

(b) (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 of subdivision (a) in an amount which shall 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 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly fails or refuses to furnish technical or monitoring program reports as required by

subdivision (b) of Section 13267, or who knowingly falsifies any information provided in those technical or monitoring program reports, is guilty of a misdemeanor, may be civilly liable in accordance with subdivision (d), and is subject to criminal penalties pursuant to subdivision (e).

(d) (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 of subdivision (c) in an amount which shall not exceed five thousand dollars ($5,000) 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 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

(e) (1) Subject to paragraph (2), any person who knowingly commits any of the violations set forth in subdivision (a) or (c) shall be punished by a fine that does not exceed twenty-five thousand dollars ($25,000).

(2) Any person who knowingly commits any of the violations set forth in subdivision (a) or (c) after a prior conviction for a violation set forth in subdivision (a) or (c) shall be punished by a fine that does not exceed twenty-five thousand dollars ($25,000) for each day of the violation.

(f) (1) Notwithstanding any other provision of law, fines collected pursuant to subdivision (e) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(2) The funds described in paragraph (1) 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.

(g) The state board may carry out the authority granted to a regional board pursuant to this section if, after consulting with the regional board, the state board determines that it will not duplicate the efforts of the regional board.

SEC. 4. Section 13323 of the Water Code is amended to read:

13323. (a) Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision of law authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

(b) The complaint shall be served by certified mail or in accordance with Article 3 (commencing with Section 415.10) of, and Article 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure, and shall inform the party so served that a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing.

(c) In proceedings under this article for imposition of administrative civil liability by the state board, the executive director of the state board shall issue the complaint and any hearing shall be before the state board, or before a member of the state board in accordance with Section 183, and shall be conducted not later than 90 days after the party has been served.

(d) Orders imposing administrative civil liability shall become effective and final upon issuance thereof, and are not subject to review by any court or agency except as provided by Sections 13320 and 13330. Payment shall be made not later than 30 days from the date on which the order is issued. The time for payment is extended during the period in which a person who is subject to an order seeks review under Section 13320 or 13330. Copies of these orders shall be served by certified mail or in accordance with Article 3 (commencing with Section 415.10) of, and Article 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure upon the party served with the complaint and shall be provided to other persons who appeared at the hearing and requested a copy.

(e) Information relating to hearing waivers and the imposition of administrative civil liability, as proposed to be imposed and as finally imposed, under this section shall be made available to the public by means of the Internet.

CHAPTER 294

An act to amend Sections 30233, 30265, 30333.1, 30333.2, 30340.5, 32604, and 32605 of, to add Section 30601.3 to, and to repeal Sections 30342, 30343, 30608.5, and 30713 of, the Public Resources Code, relating to natural resources.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 30233 of the Public Resources Code is amended to read:

30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource-dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities

proposed to be developed or improved, where the improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

SEC. 2. Section 30265 of the Public Resources Code is amended to read:

30265. The Legislature finds and declares all of the following:

(a) Transportation studies have concluded that pipeline transport of oil is generally both economically feasible and environmentally preferable to other forms of crude oil transport.

(b) Oil companies have proposed to build a pipeline to transport offshore crude oil from central California to southern California refineries, and to transport offshore oil to out-of-state refiners.

(c) California refineries would need to be retrofitted if California offshore crude oil were to be used directly as a major feedstock. Refinery modifications may delay achievement of air quality goals in the southern California air basin and other regions of the state.

(d) The County of Santa Barbara has issued an Oil Transportation Plan that assesses the environmental and economic differences among various methods for transporting crude oil from offshore California to refineries.

(e) The Governor should help coordinate decisions concerning the transport and refining of offshore oil in a manner that considers state and local studies undertaken to date, that fully addresses the concerns of all affected regions, and that promotes the greatest benefits to the people of the state.

SEC. 3. Section 30333.1 of the Public Resources Code is amended to read:

30333.1. The commission shall periodically review its regulations and procedures and determine what revisions, if any, are necessary and appropriate to simplify and expedite the review of any matter that is before the commission for action pursuant to this division. The commission shall implement, within 60 days of the review, any revisions

it determines to be appropriate, so that its regulations and procedures may continue to be as simple and expeditious as practicable.

SEC. 4. Section 30333.2 of the Public Resources Code is amended to read:

30333.2. Notwithstanding any other provision of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, the commission shall not adopt nor publish a building standard, as defined in Section 18909 of the Health and Safety Code, unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. A building standard adopted in violation of this section shall have no force or effect. A building standard expressly required by a provision of federal law, specifically requiring that building standard, shall be adopted and published in the State Building Standards Code within the time required by federal law.

SEC. 5. Section 30340.5 of the Public Resources Code is amended to read:

30340.5. (a) It is the policy of the state that no less than 50 percent of funds received by the state from the federal government pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.) shall be used for the preparation, review, approval, certification, and implementation of local coastal programs.

(b) A local government subject to this division may claim reimbursement of costs incurred as a direct result of the operation of or any requirement promulgated pursuant to this division. Notwithstanding any other provision of law, a claim for reimbursement of mandated costs directly attributable to the operation of this division shall only be submitted, reviewed, and approved in the manner set forth in this section.

(c) A claim pursuant to this section shall be submitted to the executive director of the commission no later than September 30. The executive director shall review the claim in accordance with this section and shall submit the claim to the Controller within 60 days after receipt of a claim but in no event later than November 30.

(d) A claim submitted pursuant to this section shall be filed on forms approved and prepared by the commission in consultation with the Controller. The forms shall specify the information needed to enable the executive director of the commission and the Controller to make the determinations required by subdivision (e). The forms shall clearly set forth information requirements for the evaluation of the following categories of costs:

(1) Costs for work relating to the preparation, review, and approval of a local coastal program or a portion of a program.

(2) Costs for work that is not covered by paragraph (1).

The claim forms required by this section shall provide for claims of actual costs incurred during the fiscal year preceding submittal and for the costs the claimant local government estimates will be incurred during the then current fiscal year.

(e) The executive director shall review and evaluate each claim submitted pursuant to this section and shall determine whether:

(1) The costs claimed are not paid for or reimbursed from any other source of state or federal funding.

(2) The costs are for work which is the direct result of and is mandated by the operation of this division or by the commission or whether the work is optional.

(3) With respect to costs specified in paragraph (1) of subdivision (d), the work done or to be done is reasonable and necessary for the preparation and approval of a local coastal program pursuant to a local coastal program work program approved by the commission, or for work which is not part of an approved work program if the work can be shown to be necessary for the completion of a certifiable local coastal program or if new information or other circumstances cause the commission to require that the work be carried out.

(f) The executive director of the commission shall submit to the Controller, on behalf of each claimant local government, all claims submitted pursuant to this section together with his or her recommendation whether the Controller should allow or deny, in whole or in part, the claim. The executive director's recommendation shall be based on his or her determinations made pursuant to subdivision (e). If the executive director fails to make a recommendation by the time a claim is required to be submitted to the Controller as provided in subdivision (c), the executive director is deemed to have recommended approval of the claim.

(g) Section 17561 of the Government Code shall apply to a claim filed pursuant to this section. However, where a conflict between Section 17561 of the Government Code and this section occurs, the conflict shall be resolved in a manner that best carries out the purposes of this section. The Controller shall apply the criteria of subdivision (e) in determining whether to allow or deny, in whole or in part, a claim and shall consider the recommendations of the executive director of the commission.

SEC. 6. Section 30342 of the Public Resources Code is repealed.

SEC. 7. Section 30343 of the Public Resources Code is repealed.

SEC. 8. Section 30601.3 is added to the Public Resources Code, to read:

30601.3. (a) Notwithstanding Section 30519, the commission may process and act upon a consolidated coastal development permit application if both of the following criteria are satisfied:

(1) A proposed project requires a coastal development permit from both a local government with a certified local coastal program and the commission.

(2) The applicant, the appropriate local government, and the commission, which may agree through its executive director, consent to consolidate the permit action, provided that public participation is not substantially impaired by that review consolidation.

(b) The standard of review for a consolidated coastal development permit application submitted pursuant to subdivision (a) shall follow Chapter 3 (commencing with Section 30200), with the appropriate local coastal program used as guidance.

(c) The application fee for a consolidated coastal development permit shall be determined by reference to the commission's permit fee schedule.

(d) To implement this section, the commission may adopt guidelines, in the same manner as interpretive guidelines adopted pursuant to paragraph (3) of subdivision (a) of Section 30620.

SEC. 9. Section 30608.5 of the Public Resources Code is repealed.

SEC. 10. Section 30713 of the Public Resources Code is repealed.

SEC. 11. Section 32604 of the Public Resources Code is amended to read:

32604. The conservancy shall do all of the following:

(a) Establish policies and priorities for the conservancy regarding the San Gabriel River and the Lower Los Angeles River, and their watersheds, and conduct any necessary planning activities, in accordance with the purposes set forth in Section 32602.

(b) Give priority to river related projects that create expanded opportunities for recreation, greening, aesthetic improvement, and wildlife habitat along the corridor of the river, and in parts of the river channel that can be improved for the above purposes without infringing on water quality, water supply, and necessary flood control.

(c) Approve conservancy funded projects that advance the policies and priorities set forth in Section 32602.

(d) Prepare a San Gabriel and Lower Los Angeles Parkway and Open Space Plan to be approved by a majority of the cities representing a majority of the population, the Board of Supervisors of Los Angeles County, the Central Basin Water Association, and the San Gabriel Valley Water Association. The plan shall include, but not be limited to, all of the following elements:

(1) A determination of the policies and priorities for the conservation of the San Gabriel River and its watershed, the Lower Los Angeles River,

and the San Gabriel Mountains, in accordance with the purposes of the conservancy as set forth in Section 32602.

(2) A plan for incorporating, as relevant, the principles and planning work contained within the Los Angeles River Master Plan prepared by the County of Los Angeles.

(3) An identification of underused existing public open spaces and recommendations for providing better public use and enjoyment in areas identified in the plan.

(4) An identification of, and a priority program for implementing, those additional low-impact recreational and open space needs, including additional or upgraded facilities and parks that may be necessary or desirable.

SEC. 12. Section 32605 of the Public Resources Code is amended to read:

32605. The board shall consist of 13 voting members and seven nonvoting members, as follows:

(a) The 13 voting members of the board shall consist of all of the following:

(1) One member of the Board of Supervisors of the County of Los Angeles, or his or her designee, who represents the area or a portion thereof contained within the territory of the conservancy, appointed by the Governor.

(2) Two members of the board of directors of the San Gabriel Valley Council of Governments, one of whom shall be a mayor or city council member of a city bordering along the San Gabriel River, and one of whom shall be a mayor or city council member of a city bordering the San Gabriel Mountains area. One member shall be appointed by a majority of the membership of that board of directors, and one member shall be appointed by the Senate Committee on Rules from a list of two or more potential members submitted by the board of directors.

(3) Two members of the board of directors of the Gateway Cities Council of Governments, one of whom shall be the mayor of the City of Long Beach or a city council member of the City of Long Beach appointed by the mayor, and one of whom shall be appointed by the Speaker of the Assembly from a list of two or more potential members submitted by the executive committee of the board of directors of the Gateway Cities Council of Governments. The executive committee shall submit lists of potential members to the Speaker of the Assembly until an acceptable member is appointed.

(4) Two members of the Orange County Division of the League of California Cities, both of whom shall be a mayor or city council member of a city bordering along the San Gabriel River or a tributary thereof. One member shall be appointed by a majority of the membership of the

city selection committee of Orange County, and one member shall be appointed by the Governor from a list of two or more potential members submitted by the city selection committee.

(5) One member shall be a representative of a member of the San Gabriel Valley Water Association appointed by a majority of the membership of the board of directors of the San Gabriel Valley Water Association.

(6) One member shall be a representative of the Central Basin Water Association appointed by a majority of the membership of the board of directors of the Central Basin Water Association.

(7) One member shall be a resident of Los Angeles County appointed by the Governor from a list of potential members submitted by local, state, and national environmental organizations that operate within the County of Los Angeles and within the territory of the conservancy and that have participated in planning for river restoration or open space, or both, or river preservation.

(8) The Secretary of the Resources Agency, or his or her designee.

(9) The Secretary for Environmental Protection, or his or her designee.

(10) The Director of Finance, or his or her designee.

(b) The seven ex officio, nonvoting members shall consist of the following officers or an employee of each agency designated annually by that officer to represent the office or agency:

(1) The District Engineer of the United States Army Corps of Engineers.

(2) The Regional Forester for the Pacific Southwest Region of the United States Forest Service.

(3) The Director of the Los Angeles County Department of Public Works.

(4) The Director of the Orange County Public Facility and Resource Department.

(5) A member of the San Gabriel River Watermaster, appointed by a majority of the members of the San Gabriel River Watermaster.

(6) The Director of Parks and Recreation.

(7) The Executive Officer of the Wildlife Conservation Board.

CHAPTER 295

An act to amend Section 35600 of, and to repeal Section 35620 of, the Public Resources Code, relating to natural resources.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 35600 of the Public Resources Code is amended to read:

35600. (a) The Ocean Protection Council is established in state government. The council consists of the Secretary of the Resources Agency, the Secretary for Environmental Protection, the Chair of the State Lands Commission, and two members of the public appointed by the Governor.

(b) The two public members shall each serve a term of four years, and may each be reappointed to one additional term. The public members of the board shall be appointed on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience in the protection and conservation of coastal waters and ocean ecosystems. One of the public members shall have a scientific professional background and experience in coastal and ocean ecosystems.

(c) Except as provided in this section, members of the council shall serve without compensation. A member shall be reimbursed for actual and necessary expenses incurred in the performance of his or her duties, and in addition shall be compensated at one hundred dollars ($100) for each day during which the member is engaged in the performance of official duties of the council. Payment for actual and necessary expenses shall be paid only to the extent that those expenses are not provided or payable by another public agency. The total number of days for which a member shall be compensated may not exceed 25 days in any one fiscal year.

SEC. 2. Section 35620 of the Public Resources Code is repealed.

CHAPTER 296

An act to amend Section 5650 of, and to add Sections 4501 and 12003.2 to, the Fish and Game Code, and to add and repeal Article 5.5 (commencing with Section 18750) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to fish and game.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. It is the intent of the Legislature to establish a research program focused on reducing sea otter mortality from nonpoint source

pollution, and developing water and wastewater treatment technologies for pathogens or other causes affecting sea otter mortality.

SEC. 2. Section 4501 is added to the Fish and Game Code, to read:

4501. (a) The Legislature finds and declares that several types of nonpoint source pollution are harmful to sea otters, and that scientific studies point to links between cat feces, the pathogen T-gondii, and sea otter mortality. The Legislature further finds and declares that efforts to reduce the flushing of cat litter and cat feces are steps toward better water quality in the sea otters' natural habitat.

(b) Any cat litter offered for sale in this state shall contain one of the following statements:

(1) "Encouraging your cat to use an indoor litter box, or properly disposing of outdoor cat feces, is beneficial to overall water quality. Please do not flush cat litter in toilets or dispose of it outdoors in gutters or storm drains."

(2) A general statement that encourages the disposal of cat feces in trash and discourages flushing cat feces in toilets or disposing of them in drains.

SEC. 3. Section 5650 of the Fish and Game Code is amended to read:

5650. (a) Except as provided in subdivision (b), it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

(1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(2) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.

(3) Any sawdust, shavings, slabs, or edgings.

(4) Any factory refuse, lime, or slag.

(5) Any cocculus indicus.

(6) Any substance or material deleterious to fish, plant life, mammals, or bird life.

(b) This section does not apply to a discharge or a release that is expressly authorized pursuant to , and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms conditions of a federal permit for which the State Water Resources Control Board or a regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This section does not confer additional

authority on the State Water Resources Control Board, a regional water quality control board, or any other entity.

(c) It shall be an affirmative defense to a violation of this section if the defendant proves, by a preponderance of the evidence, all of the following:

(1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.

(2) The substance or material did not enter the waters of the state or a storm drain that discharges into the waters of the state.

(3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(d) The affirmative defense in subdivision (c) does not apply and may not be raised in an action for civil penalties or injunctive relief pursuant to Section 5650.1.

(e) The affirmative defense in subdivision (c) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this section, or suffered a judgment for a violation of this section or Section 5650.1. This subdivision shall apply only to cases filed on or after January 1, 1997.

(f) The affirmative defense in subdivision (c) does not apply and may not be raised by the defendant in any case in which a district attorney, city attorney, or Attorney General alleges, and the court finds, that the defendant acted willfully.

SEC. 4. Section 12003.2 is added to the Fish and Game Code, to read:

12003.2. Notwithstanding Section 12002 or 12008, the punishment for any violation of Sections 4500 or 4700 is a fine of not more than twenty-five thousand dollars ($25,000) per unlawful taking, imprisonment in the county jail for the period prescribed in Section 12002 or 12008, or both the fine and imprisonment.

SEC. 5. Article 5.5 (commencing with Section 18750) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 5.5. California Sea Otter Fund

18750. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Sea Otter Fund, established by Section 18751. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. If that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) When another voluntary contribution designation is removed from the tax return, the Franchise Tax Board shall revise the form of the return to include a space labeled the "California Sea Otter Fund" to allow for the designation permitted. The forms shall include in the instruction information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to support increased investigation, prevention, and enforcement actions to decrease sea otter mortality, and to provide for research and programs related to sea otters.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18751. There is in the State Treasury the California Sea Otter Fund to receive contributions made pursuant to Section 18750. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18750 to be transferred to the California Sea Otter Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Sea Otter Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18750 for payment into that fund.

18752. All money transferred to the California Sea Otter Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) Fifty percent of the revenues remaining after allocation pursuant to subdivision (a), to the Department of Fish and Game for the purposes of establishing a sea otter fund to be used within the department's index

coding system for increased investigation, prevention, and enforcement actions.

(c) Fifty percent of the revenues remaining after allocation pursuant to subdivision (a), to the California Coastal Conservancy for research and programs related to improving the near-shore ocean ecosystem, including, but not limited to, program activities to reduce sea otter mortality. The programs may also address pathogens and water and wastewater treatment technologies.

18753. (a) This article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the California Sea Otter Fund on the tax return, and as of that date is repealed, unless a later enacted statute, that is enacted before the applicable date, deletes or extends that date.

(b) (1) By September 1 of the second calendar year beginning after the first taxable year the California Sea Otter Fund appears on a tax return and by September 1 of each subsequent calendar year that the California Sea Otter Fund appears on a tax return, the Franchise Tax Board shall do both of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines the amount of contributions estimated to be received during a calendar year will not equal or exceed the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, "minimum contribution amount" for a calendar year means two hundred fifty thousand dollars ($250,000) for the second calendar year after the first taxable year for which the California Sea Otter Fund appears on the tax return, or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year that the California Sea Otter Fund appears on the tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 297

An act to amend Sections 7380, 7381, and 7382 of, and to add Section 8280.9 to, the Fish and Game Code, relating to fishing, and making an appropriation therefor.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 7380 of the Fish and Game Code is amended to read:

7380. (a) In addition to a valid California sport fishing license and any applicable sport license stamp issued pursuant to this code, after January 1, 1993, a person taking steelhead trout in inland waters shall have in his or her possession a valid nontransferable steelhead trout fishing report-restoration card issued by the department. The cardholder shall record certain fishing information on the card as designated by the department. The month, day, and location fished shall be recorded before

the cardholder begins fishing for the day and when the cardholder moves to another location listed on the back of the report-restoration card. The cardholder shall immediately record catch information upon keeping a steelhead trout and immediately record catch information regarding released steelhead trout whenever the cardholder finishes fishing for the day, or moves to another location listed on the back of the report-restoration card. The cardholder shall return the card to the department on a schedule or date established by the department.

(b) The base fee for the card shall be five dollars ($5) for the 2004 license year, which may be adjusted annually thereafter pursuant to Section 713. The funds received by the department from the sale of the card shall be deposited in the Fish and Game Preservation Fund and shall be available for expenditure upon appropriation by the Legislature. The department shall maintain the internal accountability necessary to ensure that all restrictions and requirements pertaining to the expenditure of these funds are met.

(c) The commission shall adopt regulations necessary to implement this section. These regulations shall include, but not be limited to, procedures necessary to obtain appropriate steelhead trout resources management information, a requirement that the card contain a statement explaining potential uses of the funds received as authorized by Section 7381, and a requirement that the cards be returned to the department.

SEC. 2. Section 7381 of the Fish and Game Code is amended to read:

7381. (a) Revenue received pursuant to Section 7380 may only be expended, upon appropriation by the Legislature, to monitor, restore, or enhance steelhead trout resources consistent with Sections 6901 and 6902, and to administer the fishing report-restoration card program. The department shall submit all proposed expenditures, including proposed expenditures for administrative purposes, to the Advisory Committee on Salmon and Steelhead Trout for review and comment prior to submitting a request for inclusion of the appropriation in the annual Budget Bill. The committee may recommend revisions in any proposed expenditure to the Legislature and the commission.

(b) The department shall report to the Legislature on or before July 1, 2007, regarding the steelhead trout fishing report-restoration card program's projects undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the fishing report-restoration card requirement, if any.

SEC. 3. Section 7382 of the Fish and Game Code is amended to read:

7382. This article shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 8280.9 is added to the Fish and Game Code, to read:

8280.9. Dungeness crab vessel permits are valid only in state waters and in the Pacific Ocean in federal waters south of the border with Oregon.

SEC. 5. The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the steelhead trout fishing report-restoration card revenues deposited in the Fish and Game Preservation Fund pursuant to subdivision (b) of Section 7380 of the Fish and Game Code to the Department of Fish and Game for the purposes authorized pursuant to Section 7381 of the Fish and Game Code. The money appropriated in this section shall be available for expenditure, in an amount not to exceed five hundred thousand dollars ($500,000) per year, by the Department of Fish and Game through June 30, 2009.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 298

An act to add Section 6872 to the Public Resources Code, relating to oil and gas leases.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 6872 is added to the Public Resources Code, to read:

6872. (a) If an application for oil and gas development in state waters that is determined to be incomplete by the commission continues to remain incomplete one year after the date of the first incomplete notice sent to the applicant by the commission, the application shall be considered withdrawn.

(b) If an application has been withdrawn pursuant to subdivision (a), the applicant may submit a new application.

CHAPTER 299

An act to amend Section 35400 of, and to add and repeal Chapter 5 (commencing with Section 35900) of Part 21 of, the Education Code, relating to school district governance.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. This act shall be known, and may be cited, as the Gloria Romero Educational Reform Act of 2006.

SEC. 2. Section 35400 of the Education Code is amended to read:

35400. (a) The Los Angeles Unified School District Board of Education may appoint an inspector general and shall make employment decisions related to the inspector general, except to the extent that a decision violates the terms of the employment contract under which the inspector general is employed as of January 1, 2007. The inspector general may not be dismissed by the Los Angeles Unified School District Board of Education, except for good cause. The inspector general shall be appointed to serve for a term of three years.

(b) The Inspector General of the Los Angeles Unified School District is authorized to conduct audits and investigations. The inspector general may subpoena witnesses, administer oaths or affirmations, take testimony, and compel the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence deemed material and relevant and that reasonably relate to the inquiry or investigation undertaken by the inspector general when he or she has a reasonable suspicion that a law, regulation, rule, or district policy has been violated or is being violated. For purposes of this section, "reasonable suspicion" means that the circumstances known or apparent to the inspector general include specific and articulable facts causing him or her to suspect that a material violation of law, regulation, rule, or district policy has occurred or is occurring, and that the facts would cause a reasonable officer in a like position to suspect that a material violation of a law, regulation, rule, or district policy has occurred or is occurring.

(c) Subpoenas shall be served in the manner provided by law for service of summons. Any subpoena issued pursuant to this section may be subject to challenge pursuant to Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure.

(d) For purposes of this section, Sections 11184, 11185, 11186, 11187, 11188, 11189, 11190, and 11191 of the Government Code shall apply to the subpoenaing of witnesses and documents, reports, answers, records, accounts, papers, and other data and documentary evidence as if the investigation was being conducted by a state department head, except that the applicable court for resolving motions to compel or motions to quash shall be the Superior Court for the County of Los Angeles.

(e) Notwithstanding any other provision of the law, any person who, after the administration of an oath or affirmation pursuant to this section, states or affirms as true any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six months or by a fine not to exceed five thousand dollars ($5,000), or by both that fine and imprisonment for the first offense. Any subsequent violation shall be punishable by imprisonment in a county jail not to exceed one year or by a fine not to exceed ten thousand dollars ($10,000), or by both that fine and imprisonment.

(f) The inspector general shall have access to all contracts and contracting processes conducted pursuant to Section 35912 to enable review for violations of law or conflicts of interest. The inspector general shall report quarterly to the Los Angeles Unified School District Board of Education regarding any findings arising from the review of contracts and contracting processes. These reports shall also be provided to the council of mayors established pursuant to Section 35920 and are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) The inspector general shall submit an interim report to the Legislature by July 1, 2000, annual interim reports by July 1 of each succeeding year, and a final cumulative report by December 1, 2014, on all of the following:

(1) The use and effectiveness of the subpoena power authorized by this section in the successful completion of the inspector general's duties.

(2) Any use of the subpoena power in which the issued subpoena was quashed, including the basis for the court's order.

(3) Any referral to the district attorney or the Attorney General if the district attorney or Attorney General declined to investigate the matter further or declined to prosecute.

(h) This article shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. Chapter 5 (commencing with Section 35900) is added to Part 21 of the Education Code, to read:

Chapter 5. Los Angeles Unified School District Administration

Article 1. General Provisions

35900. (a) The Legislature finds and declares both of the following:

(1) As the largest school district in California and an urban district with high numbers of pupils from historically disadvantaged groups, the Los Angeles Unified School District has unique challenges and resources that require and deserve special attention to ensure that all pupils are given the opportunity to reach their full potential.

(2) The freedom to deviate from the strictures of generally applicable education statutes and regulations while maintaining the constant commitment to fairness and equity, and to increasing academic achievement among all pupils regardless of background, is central to the success of quality schools in California and is appropriate, as a concept, for the unique circumstances of the Los Angeles Unified School District.

(b) It is the intent of the Legislature that the Los Angeles Unified School District achieve the following pupil learning and academic achievement expectations through the enactment of this chapter:

(1) Significantly improved pupil learning and academic achievement based on the academic standards of the state, graduation requirements, and other standards for assessing the achievement of pupils, as measured by the California Standards Tests administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and other valid and reliable assessments of academic achievement.

(2) Significantly improved graduation rates and significantly reduced dropout rates.

(3) A significant reduction in the academic achievement gap among racial and ethnic groups, between pupils with exceptional needs and pupils without those needs, and between English language learners and pupils who are fluent in English, so that all pupils are attaining similar, acceptable levels of academic achievement.

(4) Parent involvement and satisfaction with the schools that their children attend.

(5) The success of English language learner pupils in developing English language proficiency and increased redesignation as measured by the California English Language Development Test.

(c) It is the intent of the Legislature that the schools and administration of the Los Angeles Unified School District ensure that:

(1) All schools are clean and safe places for pupils and school staff.

(2) Each pupil has a qualified teacher who has had appropriate professional development for the one or more grades and subjects that he or she teaches.

(3) Each school has a principal who has had appropriate professional development to improve his or her ability as an educational leader to assist in improving teaching and learning at the school to which he or she is assigned, in building strong educational teams, and in promoting parental involvement and community relations.

(4) There is transparency in the fiscal affairs of the schools and the school district.

(5) Parents, teachers, and other school staff are full partners in the decisions that affect schools.

(6) The district is decentralized to reduce management bureaucracies and increase resources to schools and classrooms.

(7) Class sizes are at or below statewide averages for the corresponding grade levels.

(8) Every segment of the school community is held accountable for the achievement of the goals described in this section.

(d) Except as expressly and specifically stated in this chapter, it is the intent of the Legislature that the application of Part 25 (commencing with Section 44000) of this code and Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code to the Los Angeles Unified School District not be changed or altered.

(e) It is further the intent of the Legislature that, in performing the school-related duties set forth in this chapter, the council of mayors described in Section 35920 and the partnership described in Section 35931, which includes the Mayor of the City of Los Angeles, function as agencies authorized to maintain public schools, similar to a school district or county office of education. The council of mayors and the partnership are, therefore, a part of the public school system of the state in performing the duties established in this chapter within the meaning of Section 6 of Article IX of the California Constitution.

(f) Consistent with the council of mayors' status as part of the public school system, nothing in this chapter shall be construed to require any city to expend city resources on services to the school district or its pupils unless the expenditure is the result of a city's legislative act taken pursuant to the city's ordinary legislative decisionmaking process.

Similarly, any liability incurred by any member of the council of mayors or mayor's community partnership for education excellence in undertaking any of the functions described in this chapter shall be borne by the school district and not by the County of Los Angeles, or any of the cities within its boundaries.

35901. For purposes of this chapter, the following terms have the following meanings, unless the context in which they appear clearly requires otherwise:

(a) "Board" means the Los Angeles Unified School District Board of Education.

(b) "District superintendent" means the Superintendent of the Los Angeles Unified School District.

(c) "LAUSD" means the Los Angeles Unified School District.

Article 2. Operational Flexibility

35910. (a) Notwithstanding Section 33050, the district superintendent, on a districtwide basis or on behalf of one or more of the schools or programs of the LAUSD, after a public hearing on the matter, may request that the state board waive all or part of any section of this code or any regulation adopted by the state board that implements a provision of this code, except that a waiver of the provisions specified in subdivisions (a), (b), and (c) of Section 33050, Section 38103, 45103.1, or 45103.5, or of any law that cannot constitutionally be waived, shall not be requested or granted.

(b) A request for a waiver made pursuant to this section shall include the written statement required pursuant to subdivision (d) of Section 33050 if the exclusive representative of employees specified in that section responds with its position on any proposed waiver within 30 days of its receipt of a request from the district superintendent.

(c) If the state board does not approve or deny a waiver request submitted by the district superintendent pursuant to this section by the completion of the second regular meeting of the state board after, or within 60 days of, receiving the request, whichever date is sooner, the request shall be deemed approved for two years, commencing the first day of the following month.

35911. (a) The district superintendent shall have the authority to make employment decisions related to all certificated and classified management personnel in the Office of the Superintendent of the LAUSD. These personnel serve at the pleasure of the district superintendent.

(b) The district superintendent shall have the authority to assign and reassign a principal of a school within the LAUSD and may consult with

community leaders, schoolsite personnel, and parents of pupils enrolled at the school to which the principal is assigned. The consultation shall include the elected mayors and city council members representing territory within the attendance boundaries of the school.

(c) In assigning or reassigning a local district superintendent, the district superintendent shall consult the elected mayors and city council members representing territory within the boundaries of the local district, unless exigent circumstances exist. In addition, the Southeast Cities Schools Coalition, which is comprised of the cities of Bell, Cudahy, Huntington Park, Maywood, South Gate, and Vernon, shall have the right to ratify the selection of the local district superintendent serving the cities in the Southeast Cities Schools Coalition. If the Southeast Cities Schools Coalition fails to act within 30 days of the submission of the district superintendent of a choice for local district superintendent, the choice shall be deemed ratified. The council of mayors described in Section 35920 may recognize other coalitions of multiple cities and provide the same ratification authority with respect to the local district superintendent serving the cities in any coalition recognized in the future.

(d) The board, subject to Section 45112, may employ a pool of administrative staff to serve all members of the board, subject to budget approval. All of this staff shall report to the board as a whole, and no individual member of the board shall employ individual staff. The board shall have the authority to make employment decisions related to this staff, except to the extent that any decision would violate any applicable law, written agreement, or contract under which the staff are employed.

(e) The board shall retain the power to appoint and to make other employment decisions related to the inspector general of the LAUSD, pursuant to Section 35400, and related to staff directly reporting to the inspector general.

(f) The district superintendent shall make all employment decisions for all nonrepresented personnel of the LAUSD, subject to the applicable protections of the personnel commission.

(g) Except as expressly provided above, this section does not change or alter the application of Part 25 (commencing with Section 44000) of this code or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code to the LAUSD.

(h) The authority of the district superintendent to assign and reassign principals, as set forth in subdivision (b), shall not supersede the process by which existing site-based agreements that provide for an alternative method of selecting a principal are extended or modified.

(i) As used in subdivisions (b) and (c), "consult" includes, at a minimum, the right to suggest qualifications to look for in the individual to receive the position, the right to recommend individuals for the

position, and the right to provide opinion and feedback regarding finalists being considered for the position.

(j) The district superintendent shall establish an Office of Parent Communication that may be staffed by an ombudsperson or similar employee. The office shall assure that the LAUSD complies with the processes for receiving and addressing parent complaints set forth in Section 35186 and shall assure that the LAUSD complies with the requirements regarding parent information and the rights of parents to participate in the education of their children set forth in Section 51101. The office shall report regularly on the compliance of the LAUSD with those sections.

35912. (a) (1) The district superintendent shall have the authority over the contracting operations of the LAUSD, including, but not limited to, the negotiation and execution of contracts, except those contracts governed by Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. For purposes of negotiating and executing contracts, the district superintendent is subject to the otherwise applicable requirements of law, including statutory or regulatory competitive bidding procedures and best contracting practices. The district superintendent shall provide public notice of his or her intent to award any contract in excess of two hundred fifty thousand dollars ($250,000) at least 45 days before the execution of the contract, unless the district superintendent, in his or her discretion, determines and certifies that there is an urgency, in which case public notice shall occur at least 30 days before the execution of the contract. In addition, the district superintendent shall report to the board on all contracts at the next regularly scheduled public meeting of the board following the execution of the contract. The public notice shall, at a minimum, include electronic posting on the LAUSD Internet Web site, and physical posting at 10 geographically dispersed district offices or schools in an area that is accessible to the public for at least 12 hours each day.

(2) A decision by the district superintendent to contract with a private individual, other governmental agency, or business entity for personal services that, as of January 1, 2007, are currently or customarily performed by classified school employees or other district employees shall, notwithstanding paragraph (1), require approval of the board and be subject to, and comply in all respects with, Sections 38103, 45103.1, and 45103.5. With respect to the rebidding or renewal of any personal services contract entered into prior to January 1, 2003, and covered by subdivision (d) of Section 45103.1, and in addition to any other notice that may be required by law, the district superintendent shall give no less than 30 days written notice of the intent to renew or rebid to each exclusive representative of district employees.

(b) Except as indicated in this subdivision, nothing in this chapter removes or alters the obligation of the LAUSD to comply with all requirements for the expenditure of bond proceeds, including, but not limited to, those required by Section 15278, by subparagraphs (C) and (D) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, and by the terms of bond measures approved by the district electorate. To the extent the district superintendent, in the course of exercising his or her authority under this chapter, acts to expend any bond proceeds, the district superintendent shall abide by all restrictions and fulfill all obligations that otherwise would have devolved upon the board in conjunction with the expenditure of those bond proceeds.

(c) The intent of the Legislature in enacting this section is to transfer the responsibility for contracting operations, including appropriation and payment, from the board to the district superintendent. This section does not alter the rights or requirements related to the employment of district employees pursuant to Part 25 (commencing with Section 44000) of this code or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, or any applicable collective bargaining agreement or contract. This section does not alter any other law regarding the procedures for school districts to execute or amend contracts.

35913. (a) The district superintendent shall annually prepare a proposed budget for the LAUSD for the succeeding fiscal year. The proposed budget shall be presented to the council of mayors established pursuant to Article 3 (commencing with Section 35920) for review and comment, and to the board for final approval. Any budget revisions during the fiscal year shall also be presented to the council of mayors for review and comment and to the board for final approval. The proposed budget and any budget revision shall be provided to the council of mayors at least 30 days before the consideration and adoption of the budget or budget revision by the board.

(b) The budget and any budget revisions prepared and presented by the district superintendent shall include budgetary information that is no more detailed than the fund, resource code, and major object code level, as defined in the California School Accounting Manual in effect as of January 1, 2007.

(c) The board shall approve the annual budget of the office of the inspector general, and the amount approved shall not be reduced during the year without the approval of the board.

(d) The council of mayors may hold a public hearing and review and comment on the proposed budget and any budget revision at least 15 days prior to the consideration and adoption of the budget or budget

revision by the board. After the opportunity for public comment, the board shall have final approval of the budget and any budget revisions.

(e) The district superintendent is responsible for compliance with fiscal reporting requirements to the county superintendent of schools, the department, and the Superintendent.

(f) The district superintendent annually shall provide, for review and comment, the budget to the member cities of the Southeast Cities Schools Coalition, which is described in subdivision (c) of Section 35911.

35914. (a) (1) The LAUSD, when selecting curriculum and instructional materials for the district, shall ensure that:

(A) Parents, teachers, and other certificated staff have an authentic and central role.

(B) A majority of the participants of each of the advisory curriculum and textbook and instructional materials selection committees of the district are classroom teachers selected by classroom teachers.

(C) Basic instructional materials for kindergarten and grades 1 to 8, inclusive, purchased with state categorical funds for instructional materials are state board-adopted materials.

(D) Basic instructional materials for grades 9 to 12, inclusive, are aligned to state content standards, if content standards exist for the applicable subjects.

(E) There is a wide selection of supplemental instructional materials that are consistent with the needs of pupils and available for use.

(F) Consistent with subparagraphs (A) to (E), inclusive, each schoolsite, with the participation of its principal, its classroom teachers, and parents of its pupils, are authorized to develop a plan for implementing curriculum that meets the individual needs of its pupils.

(2) This subdivision does not prevent the board from requiring that the same basic instructional materials be used in all schools of the LAUSD.

(b) The board shall retain its authority to establish the requirements for graduation from high school pursuant to paragraph (2) of subdivision (a) of Section 51225.3.

(c) In addition to the districtwide staff development, principals and teachers at individual schools, with the input of parents, are authorized to develop professional development programs supportive of the individual needs of pupils at their respective schoolsites.

35915. (a) (1) The district superintendent shall develop and manage the facilities program for the LAUSD. This program may include, but not be limited to, the development, management, and implementation of a strategic plan regarding facilities for the LAUSD and the management of all phases of construction, repair, upgrade, renovation, and maintenance of school facilities of the district.

(2) The council of mayors established pursuant to Section 35920 shall provide input to the district superintendent regarding the facilities program. However, notwithstanding that authority, and except as provided pursuant to subdivision (b), the district superintendent shall retain all decisionmaking power regarding any facilities program of the district.

(3) The LAUSD, through the district superintendent, is subject to all laws regarding the review and approval of decisions of the district by state agencies regarding school facilities of the district.

(b) Eminent domain proceedings related to school facilities of the district require the approval of the board. The board shall also retain decisionmaking power related to the placement of school facilities bond measures on the ballot and related to levying development fees for school facilities purposes pursuant to law.

(c) This chapter does not deprive the board of the power or authority to adopt or enter into project stabilization agreements or project labor agreements for district construction or facilities projects or affect the validity of existing project stabilization agreements and project labor agreements. The decision to adopt or enter into project stabilization agreements or project labor agreements for district construction or facilities projects is within the sole discretion of the board.

Article 3. Council of Mayors

35920. (a) The council of mayors is hereby established and shall be comprised of the directly elected mayor, or a city council member selected by the city council if there is no directly elected mayor, of each city any part of which is located within the attendance boundaries of the LAUSD and each member of the Los Angeles County Board of Supervisors whose supervisorial district includes any unincorporated portion of the county that is located within the attendance boundaries of the LAUSD.

(1) The mayor, or his or her designee, of each eligible city shall participate as a member of the council of mayors, unless the city elects not to participate by adopting a resolution to that effect.

(2) A member of the county board of supervisors who is eligible to participate as a member of the council of mayors may elect not to participate by providing written notification of that election to the council.

(b) In exercising any of the duties described in this chapter, the council of mayors shall act by 90 percent of the weighted vote of the total membership of the council. The weighted vote of each member of the council of mayors is equal to the proportion of the population of the LAUSD that are residents of the city of the individual member, or

unincorporated area of the county for any member of the county board of supervisors, to the total population of residents of the LAUSD, excluding those residents of a city council or supervisorial district whose representative has elected not to participate in the council of mayors under paragraph (1) or (2) of subdivision (a).

35921. (a) Notwithstanding any other provision of law, the council of mayors may select a representative to participate in all aspects of the selection and evaluation by the board of the district superintendent, including, but not limited to, the search for potential candidates and the setting of compensation. This right includes access, by the representative of the council of mayors, to closed session meetings of the board in which any of these matters regarding the selection and evaluation of the district superintendent are to be discussed. The representative does not have the right to vote with the board on any matter.

(b) The appointment, contract term, contract renewal, refusal to renew a contract, or removal of the district superintendent shall be ratified by the council of mayors. If the council of mayors fails to act within 30 days of the submission of one of these actions by the board, the action shall be deemed ratified. If the council of mayors refuses to ratify the appointment, contract term, contract renewal, or removal of the district superintendent, the council of mayors shall communicate through its representative in closed session the reasons for their refusal to the board.

(c) The council of mayors and its representative shall comply with all legal requirements applicable to the board and its members concerning the matters set forth in this subdivision, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

35922. The district superintendent shall provide each School Accountability Report Card required by Section 35256 for each school of the LAUSD to the council of mayors on an annual basis for review and comment. Each School Accountability Report Card shall be provided to the council of mayors at least two weeks before the report card is released to the public.

35923. The council of mayors and the district superintendent shall negotiate and finalize memoranda of understanding by March 1, 2007, to establish each of the following:

(a) An efficient and effective process to ensure that the LAUSD and each city or the county have every opportunity to consult and agree upon joint-use projects between the district and each city or the county to

permit youth, children, and families to access and use school resources at times other than during the regular schoolday. The memorandum of understanding should establish a process that secures good faith participation by both sides in an effort to establish joint-use municipal and school district projects and programs.

(b) An efficient and effective process to ensure that each city or county supervisorial district in which a new school is proposed to be constructed by the LAUSD has the opportunity to provide feedback to the district superintendent and to propose alternative sites or modified construction options, and to follow whatever consultative process the city or supervisorial district may devise in arriving at that feedback, without unreasonably delaying the completion and opening of a newly constructed school.

(c) An efficient and effective process for the council of mayors and the LAUSD to jointly conduct and complete, by January 1, 2008, the first periodic comprehensive identification, mapping, and assessment of available services, including public safety services, for children and youth in each school community, and to jointly consult about creating and maintaining new community services for children and youth to fill gaps identified in the assessment, in order to support the education and increased achievement of pupils in each school community. The LAUSD and council of mayors shall cooperate to identify private resources to fund the assessment to the greatest extent possible.

(d) The Chief of the Los Angeles School Police Department and the chief or sheriff of a law enforcement agency serving each city and unincorporated county area within the LAUSD shall develop and coordinate efficient and effective protocols for mutual cooperation, timely sharing of information, ongoing communication, and memorandums of agreement related to the responsibility of each agency.

35924. The council of mayors, in the course of conducting its duties, may create a committee of parents of pupils in the LAUSD, to provide input on the selection of a superintendent and other education related matters considered by the council of mayors and on the effective delivery of services to children and youth by the district and municipalities, including, but not limited to, review of the budget, review of school accountability report cards, and consideration of joint use and school siting. The LAUSD shall assist the council of mayors in conducting outreach to parents in the creation of that committee.

Article 4. The Los Angeles Mayor's Community Partnership for School Excellence

35930. This article shall be known, and may be cited, as "The Los Angeles Mayor's Community Partnership for School Excellence."

35930.5. (a) The community partnership, directed by the Mayor of the City of Los Angeles and described in Section 35931, may request that the Los Angeles County Superintendent of Schools authorize the demonstration project described in this article. The demonstration project shall not proceed without that authorization.

(b) The county superintendent shall act upon a request received pursuant to subdivision (a) within 20 days of his or her receipt of the request. The county superintendent shall grant a request for authorization unless the county superintendent determines that one or more of the following conditions exist:

(1) The mayor and the partnership are demonstrably incapable, and not likely to gain the capability before the project begins, of implementing a sound educational program at the schools in the demonstration project.

(2) The mayor and the partnership have an irremediable and significant conflict of interest in undertaking the demonstration project involving the partners.

(3) The mayor and the partnership are demonstrably incapable, and not likely to gain the capability before the project begins, of providing sufficient financial oversight to ensure that the schools in the project are financially capable of sustaining a sound educational program and other operational services.

(c) After the completion of the progress report described in Section 35940, the county superintendent may withdraw authorization of the demonstration project by concluding and certifying that the progress report demonstrates that one or more of the following conditions exist:

(1) The mayor and the partnership are demonstrably incapable of implementing a sound educational program at the schools in the demonstration project.

(2) The mayor and the partnership have an irremediable and significant conflict of interest in undertaking the demonstration project involving the partners.

(3) The mayor and the partnership are demonstrably incapable of providing sufficient financial oversight to ensure that the schools in the project are financially capable of sustaining a sound educational program and other operational services.

35931. (a) (1) Upon authorization by the county superintendent of schools pursuant to Section 35930.5, the Mayor of the City of Los Angeles, in partnership with the LAUSD, parent and community leaders

and organizations, and school personnel and employee organizations, shall, as part of a demonstration project, exercise the powers set forth in Section 35932 regarding three clusters of the lowest performing schools in different geographic areas within the LAUSD that are located within the City of Los Angeles. Each cluster shall include a high school that is ranked in decile 1 or 2 on the Academic Performance Index, pursuant to Section 52056, and its feeder middle and elementary schools and other programs, including, but not limited to, early childhood programs and centers, continuation schools, and adult education programs.

(2) LAUSD participation in the partnership shall be through a full-time district employee appointed by the district superintendent for each of the three clusters. The mayor shall ensure that each of the clusters is represented in the partnership by at least two representatives from parent organizations who are not also employees of the district, at least two community leaders who are not from a parent or employee organization, and one classroom teacher, one classified employee, and one school administrator selected from those nominated by employee organizations of classroom teachers, classified employees, and school administrators, respectively, who are employed at a school within the cluster.

(3) The full-time district employee specified in paragraph (2) shall perform the functions of the Office of Parent Communication set forth in subdivision (j) of Section 35911 for the cluster of schools to which he or she is assigned.

(b) The high schools for each cluster shall be selected by the mayor and the district superintendent, in consultation with the other members of the partnership described in subdivision (a), and shall take into account the academic status of each school and the interests of the school community. If the mayor and the district superintendent do not agree on the high school for the first cluster on or before February 1, 2007, for the second cluster on or before March 1, 2007, and for the third cluster on or before September 1, 2007, the county superintendent of schools shall select the high school for the cluster within 30 days of the applicable deadline. These deadlines are maximum time periods, but all parties shall act with diligence to permit achievement of the objective of each cluster joining the demonstration project in the 2007–08 school year.

(c) The purpose of the demonstration project is as follows:

(1) To achieve all of the following pupil learning and academic achievement expectations:

(A) Significantly improved pupil learning and academic achievement based on the academic standards of the state, graduation requirements, and other standards that may be developed by the partnership described in subdivision (a), as measured by the California Standards Tests

administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and other valid and reliable assessments of academic achievement.

(B) Significantly improved graduation rates and significantly reduced dropout rates.

(C) A significant reduction in the academic achievement gap among racial and ethnic groups, between pupils with exceptional needs and pupils without those needs, and between English language learners and pupils who are fluent in English, so that all pupils are attaining similar, acceptable levels of academic achievement.

(D) Parent involvement and satisfaction with the schools that their children attend.

(E) The success of English language learner pupils in developing English language proficiency and increased redesignation as measured by the California English Language Development Test.

(2) To achieve all of the following school expectations:

(A) All schools are clean and safe places for pupils and school staff.

(B) Each pupil has a qualified teacher who has had appropriate professional development for the grade or grades and subject or subjects that he or she teaches.

(C) Each school has a principal who has had appropriate professional development to improve his or her ability as an educational leader to assist in improving teaching and learning, in building strong educational teams, and in promoting parental involvement and community relations.

(D) Transparency in the fiscal affairs of the operations of each school.

(E) Parents, teachers, and other school staff are full partners in the decisions that affect the schools.

(F) Every segment of the school community is held accountable for the achievement of the goals described in this section.

35932. (a) Notwithstanding any other provisions of law, and except for the authority to negotiate and enforce collective bargaining agreements, all authority exercised by the board and the district superintendent with respect to the schools in the demonstration project shall be transferred to the partnership described in subdivision (a) of Section 35931, which is directed by the mayor. In a manner consistent with districtwide collective bargaining agreements, the partnership may seek waivers, pursuant to Section 35910, from the state board and authority to operate the schools in the demonstration project with maximum flexibility and efficiency.

(b) The schools in the demonstration project shall continue to exist as district schools, and employees at the schools shall be deemed to be district employees with all the rights of district employees.

(c) Schools in the demonstration project shall continue to be funded with district resources, including average daily attendance revenue and state or federal categorical or other targeted funding generated by, or granted based on, the pupils in the schools in each cluster. That funding may also be supplemented by private funds, recorded, and accounted for by the partnership. The LAUSD shall provide funds and may assess costs to partnership schools, provided that these schools shall receive the same benefit from any new or increased local, state, or federal funding that these schools would receive if they were not partnership schools.

(d) The partnership schools and the LAUSD shall develop a budget and cost system that carries out the provisions of this section.

(e) The LAUSD shall not take actions that have negative fiscal consequences for partnership schools due to their participation in the partnership.

35933. For purposes of Section 8 of Article XVI of the California Constitution, the schools included in the demonstration project pursuant to this article remain public schools and remain part of a school district. The establishment of the demonstration project pursuant to this article does not create an obligation of the state to provide additional funds to the LAUSD or to the schools in the demonstration project.

Article 5. Program Evaluation

35940. (a) From funds appropriated for this purpose, the department shall contract for an evaluator to perform all of the following:

(1) Compose a progress report on the implementation of the programs authorized under this chapter to be completed on or before January 1, 2008.

(2) Conduct a final evaluation to be completed by January 1, 2011.

(3) Report to the Legislature and the Governor on the final evaluation completed pursuant to paragraph (2) and, in that report, make recommendations to continue, modify, or terminate the programs by January 1, 2011, based upon the results in meeting the measurements described in subdivision (b).

(b) The evaluation of the effectiveness of the programs shall be based on a comparison of the LAUSD and its component schools and pupils in 2006 relative to the time of the evaluation of the LAUSD and its component schools and pupils. The evaluation shall include, but not be limited to, all of the following:

(1) Whether schools participating in the Los Angeles Mayor's Community Partnership for School Excellence, other schools in the LAUSD, and the LAUSD as a whole accomplished the following:

(A) Significantly improved pupil learning and academic achievement based on the academic standards of the state, graduation requirements, and other standards for assessing the achievement of pupils.

(B) Significantly improved graduation rates and significantly reduced dropout rates.

(C) Significantly reduced the academic achievement gap among racial and ethnic groups, between pupils with exceptional needs and pupils without those needs, and between English language learners and pupils who are fluent in English, so that all pupils are attaining similar, acceptable levels of academic achievement.

(D) Provided parent satisfaction with the schools that their children attend.

(E) Ensured English language learner success.

(2) Whether schools participating in the Los Angeles Mayor's Community Partnership for School Excellence, other schools in the LAUSD, and the LAUSD as a whole accomplished, and to what degree they accomplished, the following:

(A) Made all schools clean and safe places for pupils and school staff.

(B) Ensured that each pupil has a qualified teacher who has had appropriate professional development for the one or more grades and subjects that he or she teaches.

(C) Ensured that each school has a principal who has had appropriate professional development to improve his or her ability as an educational leader to assist in improving teaching and learning at the school to which he or she is assigned, in building strong educational teams, and in promoting parental involvement and community relations.

(D) Ensured transparency in the fiscal affairs of the schools and district.

(E) Made parents, teachers, and other school staff full partners in the decisions that affect schools.

(F) Decentralized the district to reduce management bureaucracies and to increase resources to schools and classrooms.

(G) Ensured that class sizes are at or below statewide averages for the corresponding grade levels.

(H) Ensured that the district and schools are able to attract and retain quality teachers.

(I) Held the school community segments accountable for the achievement of the above-described goals.

Article 6. Repeal

35950. This chapter shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances that have resulted in the Los Angeles Unified School District facing more serious challenges to the achievement of pupils and schools than most other school districts.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 300

An act to amend Sections 42872.5, 42873, and 42885.5 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 42872.5 of the Public Resources Code is amended to read:

42872.5. (a) (1) In addition to the purposes listed in Section 42872, the tire recycling program may include the awarding of grants to cities, counties, and other local government agencies for the funding of public works projects that use rubberized asphalt concrete. In addition to the factors listed in Sections 42874 and 42875, the board may award a grant for a public works project that uses rubberized asphalt concrete if the project will use at least 1,250 tons of rubberized asphalt concrete during the life of the project and will use 20 pounds or more of crumb rubber per ton of rubberized asphalt concrete.

(2) The board shall annually determine the amount of a grant to be awarded pursuant to this section, based on the per ton amount of rubberized asphalt concrete to be used in the project.

(3) The board shall not award a grant pursuant to this section that exceeds a maximum amount of two hundred fifty thousand dollars ($250,000).

(b) The grants authorized under this section shall be funded by an appropriation in the annual Budget Act from the California Tire Recycling Management Fund established pursuant to Section 42885. To the extent possible, depending on the number of qualified applications, and whether there is a sufficient supply of crumb rubber materials, any funds appropriated pursuant to this section shall not be less than 16 percent of the funds appropriated pursuant to this chapter for market development and new technology activities for used tires and waste tires.

(c) In order to provide outreach to local agencies regarding the use of rubberized asphalt concrete in public works projects, all of the following shall occur:

(1) The board shall create, annually update, and post on its Internet Web site a database of public works projects that include rubberized asphalt concrete that were completed by local agencies under the program established by this section.

(2) The Department of Transportation shall post on its public Internet Web site data and descriptions regarding state public works projects using rubberized asphalt concrete.

(3) The board shall post on its public Internet Web site a link to the data and descriptions provided under paragraph (2).

(4) The board shall provide technical support to local agencies on the design and application for rubberized asphalt concrete.

(d) This section shall become inoperative on June 30, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 42873 of the Public Resources Code is amended to read:

42873. (a) Activities eligible for funding under this article, that reduce, or that are designed to reduce or promote the reduction of, landfill disposal of used whole tires, may include the following:

(1) Polymer treatment.

(2) Rubber reclaiming and crumb rubber production.

(3) Retreading.

(4) Shredding.

(5) The manufacture of products made from used tires, including, but not limited to, all of the following:

(A) Rubberized asphalt, asphalt rubber, modified binders, and chip seals.

(B) Playground equipment.

(C) Crash barriers.
(D) Erosion control materials.
(E) Nonslip floor and track surfacing.
(F) Oilspill recovery equipment.
(G) Roofing adhesives.
(H) Tire-derived aggregate applications, including lightweight fill and vibration mitigation.

(6) Other environmentally safe applications or treatments determined to be appropriate by the board.

(b) (1) The board may not expend funds for an activity that provides support or research for the incineration of tires. For the purposes of this article, incineration of tires, includes, but is not limited to, fuel feed system development, fuel sizing analysis, and capacity and production optimization.

(2) Paragraph (1) does not affect the permitting or regulation of facilities that engage in the incineration of tires.

SEC. 3. Section 42885.5 of the Public Resources Code is amended to read:

42885.5. (a) The board shall adopt a five-year plan, which shall be updated every two years, to establish goals and priorities for the waste tire program and each program element.

(b) On or before July 1, 2001, and every two years thereafter, the board shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The board shall include in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the board to maximize productive uses of waste and used tires, and the performance objectives and measurement criteria used by the board to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each program element's effectiveness, based upon performance measures developed by the board, including, but not limited to, the following:

(1) Enforcement and regulations relating to the storage of waste and used tires.

(2) Cleanup, abatement, or other remedial action related to waste tire stockpiles throughout the state.

(3) Research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(4) Market development and new technology activities for used tires and waste tires.

(5) The waste and used tire hauler program and manifest system.

(6) A description of the grants, loans, contracts, and other expenditures proposed to be made by the board under the tire recycling program.

(7) Until June 30, 2010, the grant program authorized under Section 42872.5 to encourage the use of rubberized asphalt concrete technology in public works projects.

(8) Border region activities, conducted in coordination with the California Environmental Protection Agency, including, but not limited to, all of the following:

(A) Training programs to assist Mexican waste and used tire haulers to meet the requirements for hauling those tires in California.

(B) Environmental education training.

(C) Development of a waste tire abatement plan, with the appropriate government entities of California and Mexico.

(D) Tracking both the legal and illegal waste and used tire flow across the border and recommended revisions to the waste tire policies of California and Mexico.

(E) Coordination with businesses operating in the border region and with Mexico, with regard to applying the same environmental and control requirements throughout the border region.

(c) The board shall base the budget for the California Tire Recycling Act and program funding on the plan.

(d) The plan may not propose financial or other support that promotes, or provides for research for the incineration of tires.

CHAPTER 301

An act to amend Sections 33352, 33353, 33354, and 35179 of the Education Code, relating to physical education.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 33352 of the Education Code is amended to read:

33352. (a) The department shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; advise school officials, school boards, and teachers in the development and improvement of their physical education and activity programs; and investigate the work in physical education in the public schools.

(b) The department shall ensure that the data collected through the Categorical Program Monitoring indicates the actual number of minutes

of instruction in physical education actually provided by each school district, for the purpose of determining whether each school district is in compliance with the physical education requirements of Sections 51210, 51220, 51222, and 51223.

SEC. 2. Section 33353 of the Education Code is amended to read:

33353. (a) The California Interscholastic Federation is a voluntary organization that consists of school and school related personnel with responsibility for administering interscholastic athletic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the department, implement the following policies:

(1) Give the governing boards of school districts specific authority to select their athletic league representatives.

(2) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(3) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

(4) Provide information to parents and pupils regarding the state and federal complaint procedures for discrimination complaints arising out of interscholastic athletic activities.

(b) (1) The California Interscholastic Federation shall report to the Legislature and the Governor on its evaluation and accountability activities undertaken pursuant to this section on or before January 1, 2010. This report shall include, but not be limited to, the goals and objectives of the California Interscholastic Federation with regard to, and the status of, all of the following:

(A) The governing structure of the California Interscholastic Federation, and the effectiveness of that governance structure in providing leadership for interscholastic athletics in secondary schools.

(B) Methods to facilitate communication with agencies, organizations, and public entities whose functions and interests interface with the California Interscholastic Federation.

(C) The quality of coaching and officiating, including, but not limited to, professional development for coaches and athletic administrators, and parent education programs.

(D) Gender equity in interscholastic athletics, including, but not limited to, the number of male and female pupils participating in interscholastic athletics in secondary schools, and action taken by the California Interscholastic Federation in order to ensure compliance with

Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.).

(E) Health and safety of pupils, coaches, officials, and spectators.

(F) The economic viability of interscholastic athletics in secondary schools, including, but not limited to, the promotion and marketing of interscholastic athletics.

(G) New and continuing programs available to pupil-athletes.

(H) Awareness and understanding of emerging issues related to interscholastic athletics in secondary schools.

(2) It is the intent of the Legislature that the California Interscholastic Federation accomplish all of the following:

(A) During years in which the California Interscholastic Federation is not required to report to the Legislature and the Governor pursuant to paragraph (1), it shall hold a public comment period relating to that report at three regularly scheduled federation council meetings per year.

(B) Annually allow public comment on the policies and practices of the California Interscholastic Federation at a regularly scheduled federation council meeting.

(C) Require sections of the California Interscholastic Federation to allow public comment on the policies and practices of the California Interscholastic Federation and its sections, and the report required pursuant to paragraph (1), at each regularly scheduled section meeting.

(D) Engage in a comprehensive outreach effort to promote the public hearings described in subparagraphs (A) and (C).

(c) This section shall become inoperative on January 1, 2012, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 3. Section 33354 of the Education Code is amended to read:

33354. (a) The department shall have the following authority over interscholastic athletics:

(1) The department may state that the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) (A) If the department states that a school district, an association, or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the department may require the school district, association, or consortium, or the federation to adjust its policy so that it is in compliance. However, the department shall not have authority to determine the specific policy that a school district must adopt in order to comply with state and federal laws.

(B) Notwithstanding any other provision of law, a complainant from a public school who wishes to file a discrimination complaint pursuant to the regulations adopted for the purpose of implementing Section 261 based on interscholastic activities conducted by an association, a consortium of school districts, or by the California Interscholastic Federation, is not required to first file a discrimination complaint with a school district, but may file an initial discrimination complaint directly with the department, and the department shall have the authority to specify, with regard to a specific discrimination complaint, the administrative remedies that such an association, a consortium of school districts, or the California Interscholastic Federation must provide in order to comply with state or federal law.

(3) If the department states that a school district, association, or consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association, or consortium, or the federation does not change its policy in order to comply with these laws, the department may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts that are members of the California Interscholastic Federation or the association or consortium that the department states is in noncompliance. In a legal proceeding, the court shall determine the matter de novo. The department may make recommendations for appropriate remedies in these proceedings.

(b) This section does not limit the discretion of local governing boards, or voluntary associations formed or maintained pursuant to subdivision (b) of Section 35179, in any policy, program, or activity that is in compliance with state and federal law.

(c) The state law with which the policies of school districts, associations, or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are required to comply, in accordance with this section, includes, but is not limited to, any regulations issued by the State Board of Education pursuant to Section 232 with regard to discrimination in interscholastic athletics.

SEC. 4. Section 35179 of the Education Code is amended to read:

35179. (a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall assure that all interscholastic policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on any basis prohibited by Chapter 2 (commencing with Section 200) of Part 1.

(e) Notwithstanding any other provision of law, no voluntary interscholastic athletic association shall deny a school from participating in interscholastic athletic activities because of the religious tenets of the school, regardless of whether that school is directly controlled by a religious organization.

(f) Interscholastic athletics is defined as those policies, programs, and activities that are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

CHAPTER 302

An act to amend Sections 3056, 3059, and 3102 of, and to add Section 3057 to, the Business and Professions Code, relating to optometry, and making an appropriation therefor.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 3056 of the Business and Professions Code is amended to read:

3056. (a) The board may issue a license to practice optometry to a person who meets all of the following qualifications:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Is currently licensed in another state.

(3) Is currently a full-time faculty member of an accredited California school or college of optometry and has served in that capacity for a period of at least five continuous years.

(4) Has attained, at an accredited California school or college of optometry, the academic rank of professor, associate professor, or clinical professor, except that the status of adjunct or affiliated faculty member shall not be deemed sufficient.

(5) Has successfully passed the board's jurisprudence examination.

(6) Is in good standing, with no past or pending malpractice awards or judicial or administrative actions.

(7) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(8) Has met the requirements of Section 3041.3 regarding the use of therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(9) Has never had his or her license to practice optometry revoked or suspended.

(10) Is not subject to denial based on any of the grounds listed in Section 480.

(11) Pays an application fee in an amount equal to the application fee prescribed by the board pursuant to Section 3152.

(12) Files an application on a form prescribed by the board.

(b) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(c) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 2. Section 3057 is added to the Business and Professions Code, to read:

3057. (a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

(4) Submits proof that he or she has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in five of the seven consecutive years immediately preceding the date of his or her application under this section.

(5) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(6) Has furnished a signed release allowing the disclosure of information from the National Practitioner Data Bank and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(7) Has never had his or her license to practice optometry revoked or suspended.

(8) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(9) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(10) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(11) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

(12) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

(13) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(14) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical exam or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board is authorized to do both of the following:

(1) Approve an application where the person's time in active practice is less than that specified in paragraph (4) of subdivision (a), if a sufficient period in active practice can be verified by the board and all other requirements of subdivision (a) are satisfied by the person.

(2) Reduce or waive the fees required by paragraph (13) of subdivision (a).

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon an person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 3. Section 3059 of the Business and Professions Code is amended to read:

3059. (a) It is the intent of the Legislature that the public health and safety would be served by requiring all holders of licenses to practice optometry granted under this chapter to continue their education after receiving their licenses. The board shall adopt regulations that require, as a condition to the renewal thereof, that all holders of licenses submit proof satisfactory to the board that they have informed themselves of the developments in the practice of optometry occurring since the original

issuance of their licenses by pursuing one or more courses of study satisfactory to the board or by other means deemed equivalent by the board.

(b) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for reasons of health, military service, or other good cause.

(c) If for good cause compliance cannot be met for the current year, the board may grant exemption of compliance for that year, provided that a plan of future compliance that includes current requirements as well as makeup of previous requirements is approved by the board.

(d) The board may require that proof of compliance with this section be submitted on an annual or biennial basis as determined by the board.

(e) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 shall complete a total of 50 hours of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis, treatment, and management of ocular disease in any combination of the following areas:

(1) Glaucoma.

(2) Ocular infection.

(3) Ocular inflammation.

(4) Topical steroids.

(5) Systemic medication.

(6) Pain medication.

(f) The board shall encourage every optometrist to take a course or courses in pharmacology and pharmaceuticals as part of his or her continuing education.

(g) The board shall consider requiring courses in child abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(h) The board shall consider requiring courses in elder abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected elder persons.

SEC. 4. Section 3102 of the Business and Professions Code is amended to read:

3102. It is unlawful to advertise as being free or without cost the furnishing of optometric services where these services are contingent upon payment or other exchange of consideration for goods or other services offered by the provider, unless that contingency is fully disclosed in the same advertisement.

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 303

An act to amend Section 4011.10 of the Penal Code, relating to inmates, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 4011.10 of the Penal Code is amended to read:

4011.10. (a) It is the intent of the Legislature in enacting this section to provide county sheriffs, chiefs of police, and directors or administrators of local detention facilities with an incentive to not engage in practices designed to avoid payment of legitimate emergency health care costs for the treatment or examination of persons lawfully in their custody, and to promptly pay those costs as requested by the provider of services. Further, it is the intent of the Legislature to encourage county sheriffs, chiefs of police, and directors or administrators of local detention facilities to bargain in good faith when negotiating a service contract with hospitals providing emergency health care services. The Legislature has set a date of January 1, 2009, for this section to be repealed, and does not intend to delete or extend that date if county sheriffs, chiefs of police, and directors or administrators have not complied with the intent of the Legislature, as expressed in this subdivision.

(b) Notwithstanding any other provision of law, a county sheriff, police chief or other public agency that contracts for emergency health services, may contract with providers of emergency health care services for care to local law enforcement patients. Hospitals that do not contract with the county sheriff, police chief, or other public agency that contracts for emergency health care services shall provide emergency health care services to local law enforcement patients at a rate equal to 110 percent of the hospital's actual costs according to the most recent Hospital Annual Financial Data report issued by the Office of Statewide Health Planning and Development, as calculated using a cost-to-charge ratio.

(c) A county sheriff or police chief shall not request the release of an inmate from custody for the purpose of allowing the inmate to seek medical care at a hospital, and then immediately rearrest the same individual upon discharge from the hospital, unless the hospital determines this action would enable it to bill and collect from a third-party payment source.

(d) The California Hospital Association, the University of California, the California State Sheriffs' Association and the California Police Chiefs' Association shall, immediately upon enactment of this section, convene the Inmate Health Care and Medical Provider Fair Pricing Working Group. The working group shall consist of at least six members from the California Hospital Association and the University of California, and six members from the California State Sheriffs' Association and the California Police Chiefs' Association. Each organization should give great weight and consideration to appointing members of the working group with diverse geographic and demographic interests. The working group shall meet at least three times annually to identify and resolve industry issues that create fiscal barriers to timely and affordable emergency inmate health care. In addition, the working group shall address issues including, but not limited to, inmates being admitted for care and later rearrested and any other fiscal barriers to hospitals being able to enter into fair market contracts with public agencies. To the extent that the rate provisions of this statute result in a disproportionate share of local law enforcement patients being treated at any one hospital or system of hospitals, the working group shall address this issue. No reimbursement is required under this provision.

(e) Nothing in this section shall require or encourage a hospital or public agency to replace any existing arrangements that any city police chief, county sheriff, or other public agency that contracts for emergency health services for care to local law enforcement patients.

(f) An entity that provides ambulance or any other emergency or nonemergency response service to a sheriff or police chief, and that does not contract with their departments for that service, shall be reimbursed for the service at the rate established by Medicare. Neither the sheriff nor the police chief shall reimburse a provider of any of these services that their department has not contracted with at a rate that exceeds the provider's reasonable and allowable costs, regardless of whether the provider is located within or outside of California.

(g) For the purposes of this section, "reasonable and allowable costs" shall be defined in accordance with Part 413 of Title 42 of the Code of Federal Regulations and federal Centers for Medicare and Medicaid Services Publication Numbers 15.1 and 15.2.

(h) For purposes of this section, in those counties in which the sheriff does not administer a jail facility, a director or administrator of a local department of corrections established pursuant to Section 23013 of the Government Code is the person who may contract for services provided to jail inmates in the facilities he or she administers in those counties.

(i) This section is repealed as of January 1, 2009.

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

In order to ensure that existing arrangements for emergency health services for care to local law enforcement patients are maintained, it is necessary that this bill take effect immediately.

CHAPTER 304

An act to amend Sections 44325 and 44329 of, and to add Section 44329.5 to, the Education Code, relating to teacher credentialing.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 44325 of the Education Code is amended to read:

44325. (a) The commission shall issue district intern credentials authorizing persons employed by a school district that maintains kindergarten and grades 1 to 12, inclusive, or that maintains classes in bilingual education to provide classroom instruction to pupils in those grades and classes in accordance with the requirements of Section 44830.3. The commission, until January 1, 2008, also shall issue district intern credentials authorizing persons employed by a school district to provide classroom instruction to pupils with mild and moderate disabilities in special education classes, in accordance with the requirements of Section 44830.3.

(b) Each district intern credential is valid for a period of two years. A credential may be valid for three years if the intern is participating in a program that leads to the attainment of a specialist credential to teach pupils with mild and moderate disabilities or four years if the intern is participating in a program that leads to the attainment of both a multiple subject or single subject teaching credential and a specialist credential

to teach pupils with mild and moderate disabilities. Upon the recommendation of the school district, the commission may grant a one-year extension of the district intern credential.

(c) The commission shall require each applicant for a district intern credential to demonstrate that he or she meets all of the following minimum qualifications for that credential:

(1) The possession of a baccalaureate degree conferred by a regionally accredited institution of postsecondary education.

(2) The successful passage of the state basic skills proficiency test administered under Sections 44252 and 44252.5.

(3) The successful completion of the appropriate subject matter examination administered by the commission, or a commission-approved subject matter preparation program for the subject areas in which the district intern is authorized to teach.

(4) The oral language component of the assessment program leading to the bilingual-crosscultural language and academic development certificate for persons seeking a district intern credential to teach bilingual education classes.

(d) The commission shall apply the requirements of Sections 44339, 44340, and 44341 to each applicant for a district intern credential.

(e) The commission shall, until January 1, 2010, participate in a pilot program, which may include the San Joaquin County Office of Education and up to five school districts or consortia approved by the commission, to provide teacher preparation programs for teachers of pupils with disabilities in special education classes. Notwithstanding subdivision (a), the commission shall issue district intern credentials authorizing participants in the approved programs to provide classroom instruction to pupils with disabilities in special education classes, in accordance with the requirements of Section 44830.3.

(f) The commission shall ensure that each district internship program in California provides program elements to its interns as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and its implementing regulations.

SEC. 2. Section 44329 of the Education Code is amended to read:

44329. On or before January 1, 2007, the commission shall prepare and submit a report to the Legislature that summarizes the regulations adopted by the commission to expand statewide the issuance of district intern certificates that authorize classroom instruction to pupils with mild and moderate disabilities. The report shall also analyze the effectiveness of persons who hold those certificates.

SEC. 3. Section 44329.5 is added to the Education Code, to read:

44329.5. On or before January 1, 2009, the commission shall prepare and submit a report to the Legislature on the effectiveness of the pilot program established by subdivision (e) of Section 44325.

CHAPTER 305

An act to add Section 337k to the Penal Code, relating to horse racing.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 337k is added to the Penal Code, to read:

337k. (a) It is unlawful for any person to advertise, or to facilitate the advertisement of, nonparimutuel wagering on horse races.

(b) Violation of this section is an infraction punishable by a fine of five hundred dollars ($500). A second conviction for a violation of this section is a misdemeanor punishable by a fine of up to ten thousand dollars ($10,000).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 306

An act to add Section 13013 of the Penal Code, relating to criminal justice statistics.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 13013 is added to the Penal Code, to read:

13013. The department shall maintain a data set, updated annually, that contains the number of crimes reported, number of clearances and clearance rates in California as reported by individual law enforcement agencies. The data set shall be made available through a prominently displayed hypertext link on the department's Internet Web site. This section shall not be construed to require reporting any crimes other than those required by Section 13012.

CHAPTER 307

An act to amend Section 20057 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 20057 of the Government Code is amended to read:

20057. "Public agency" also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(*l*) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal P.L. 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in

the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) The Tahoe Transportation District that is established by Article IX of Section 66801.

(r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a "public agency" only for this purpose.

(u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a "public agency" only for this purpose.

(v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a "public agency" only for this purpose.

(w) The State Assistance Fund for Enterprise, Business, and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.

(x) (1) A private nonprofit area agency on aging as described in Section 9006 of the Welfare and Institutions Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(2) The area agency on aging shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the agency.

(3) Notwithstanding any other provision of this part, the area agency on aging may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

CHAPTER 308

An act to amend Section 17292 of the Education Code, relating to school facilities.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 17292 of the Education Code is amended to read:

17292. (a) Notwithstanding any provision of law, an owned or leased relocatable building that does not meet the requirements of Section 17280 may be used until September 30, 2015, as a school building, if all of the following conditions are met:

(1) The relocatable building was manufactured and was in use for classroom purposes on or before May 1, 2000, and bears a commercial coach insignia of approval from the Department of Housing and Community Development.

(2) The relocatable building is a single story structure with not more than 2,160 square feet of interior floor area when all sections are joined together.

(3) The relocatable building was constructed after December 19, 1979, and bears a commercial coach insignia of approval from the Department of Housing and Community Development.

(4) The bracing and anchoring of interior overhead nonstructural elements, such as light fixtures and heating and air-conditioning diffusers, and the foundation system complies with the applicable rules and regulations adopted pursuant to this article and published in Title 24 of the California Code of Regulations.

(5) The building construction, including associated site construction, except for the relocatable building defined in paragraph (2), complies with the applicable rules and regulations adopted pursuant to this article, Sections 4450 to 4458, inclusive, of the Government Code, and Section

13143 of the Health and Safety Code and the administrative and building standards published in Title 19 and Title 24 of the California Code of Regulations.

(6) The relocatable building is anchored to the ground to resist earthquake and wind loads.

(7) The school district has certified to the Department of General Services that the relocatable building complies with the requirements of this subdivision.

(8) The Department of General Services has issued a certification of compliance with the requirements of this article.

(b) The Department of General Services may assess fees to carry out the requirements of this section. Fees imposed pursuant to this subdivision shall be equal to the costs associated with making the certifications and inspections required by, and otherwise enforcing, this section and shall be deposited in the Public School Planning, Design, and Construction Review Revolving Fund.

(c) For each relocatable building that was used as a school building pursuant to this section, the governing board of the school district shall adopt a resolution by October 30, 2015, certifying to the State Allocation Board that commencing September 30, 2015, the relocatable building is no longer being used as a school building.

CHAPTER 309

An act to amend Sections 25209.11, 25209.12, 25209.13, 25209.14, and 25209.16 of, and to add Sections 25209.18 and 25209.19 to, the Health and Safety Code, relating to water.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 25209.11 of the Health and Safety Code is amended to read:

25209.11. For purposes of this article, the following terms have the following meanings:

(a) "Agricultural drainage water" means surface drainage water or percolated irrigation water that is collected by subsurface drainage tiles placed beneath an agricultural field.

(b) "On-farm" means land within the boundaries of a property or geographically contiguous properties, owned or under the control of a

single owner or operator or a publicly organized land-based agency, that is used for the commercial production of agricultural commodities and that contains an integrated on-farm drainage management system and a solar evaporator.

(c) "Integrated on-farm drainage management system" means a facility for the on-farm management of agricultural drainage water that does all of the following:

(1) Reduces levels of salt and selenium in soil by the application of irrigation water to agricultural fields.

(2) Collects agricultural drainage water from irrigated fields and sequentially reuses that water to irrigate successive crops until the volume of residual agricultural drainage water is substantially decreased and its salt content significantly increased.

(3) Discharges the residual agricultural drainage water to an on-farm solar evaporator for evaporation and appropriate salt management.

(4) Eliminates discharge of agricultural drainage water to evaporation ponds and outside the boundaries of the property or properties that produces the agricultural drainage water and that is served by the integrated on-farm drainage management system and the solar evaporator.

(d) "Publicly organized land-based agency" means a resource conservation district, as described in Division 9 (commencing with Section 9001) of the Public Resources Code, an irrigation district, as described in Division 11 (commencing with Section 20500) of the Water Code, any other district established pursuant to the Water Code whose operations may include managing agricultural irrigation or drainage, or a joint powers authority formed for the purpose of managing agricultural drainage or salt.

(e) "Regional board" means a California regional water quality control board.

(f) "Solar evaporator" means an on-farm area of land and its associated equipment that meets all of the following conditions:

(1) It is designed and operated to manage agricultural drainage water discharged from the integrated on-farm drainage management system.

(2) The area of the land that makes up the solar evaporator is equal to, or less than, 2 percent of the area of the land that is managed by the integrated on-farm drainage management system.

(3) Agricultural drainage water from the integrated on-farm drainage management system is discharged to the solar evaporator by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water within the solar evaporator or, if a water catchment basin is part of the solar evaporator, within that portion of the solar evaporator that is outside the basin.

(4) The combination of the rate of discharge of agricultural drainage water to the solar evaporator and subsurface tile drainage under the solar evaporator provides adequate assurance that constituents in the agricultural drainage water will not migrate from the solar evaporator into the vadose zone or waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(g) "State board" means the State Water Resources Control Board.

(h) "Water catchment basin" means an area within the boundaries of a solar evaporator that is designated to receive and hold any water that might otherwise be standing water within the solar evaporator. The entire area of a water catchment basin shall be permanently and continuously covered with netting, or otherwise designed, constructed, and operated to prevent access by avian wildlife to standing water within the basin.

SEC. 2. Section 25209.12 of the Health and Safety Code is amended to read:

25209.12. The state board, in consultation, as necessary, with other appropriate state agencies, shall adopt or amend emergency regulations that establish minimum requirements for the design, construction, operation, and closure of a solar evaporator. The regulations shall include, but are not limited to, requirements to ensure all of the following:

(a) The operation of a solar evaporator does not result in a discharge of on-farm agricultural drainage water outside the boundaries of the area of land that makes up the solar evaporator.

(b) (1) The solar evaporator is designed, constructed, and operated so that, under reasonably forseeable operating conditions, the discharge of agricultural water to the solar evaporator does not result in standing water or drift of salt spray, mist, or particles outside the boundaries of the solar evaporator to the extent that drift constitutes a nuisance condition.

(2) Notwithstanding paragraph (1), a solar evaporator may be designed, constructed, and operated to accommodate standing water, if it includes a water catchment basin.

(3) The board may specify those conditions under which a solar evaporator is required to include a water catchment basin to prevent standing water that would otherwise occur within the solar evaporator.

(c) Avian wildlife is adequately protected. In adopting regulations pursuant to this subdivision, the state board shall do the following:

(1) Consider and, to the extent feasible, incorporate best management practices recommended or adopted by the United States Fish and Wildlife Service.

(2) Establish guidelines for the authorized inspection of a solar evaporator by the regional board pursuant to Section 25209.15. The guidelines shall include technical advice developed in consultation with

the Department of Fish and Game and the United States Fish and Wildlife Service that may be used by regional board personnel to identify observed conditions relating to the operation of a solar evaporator that indicate an unreasonable threat to avian wildlife.

(d) Constituents in agricultural drainage water discharged to the solar evaporator will not migrate from the solar evaporator into the vadose zone or the waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(e) Adequate groundwater monitoring and recordkeeping is performed to ensure compliance with this article.

(f) Salt isolated in a solar evaporator shall be managed in accordance with all applicable laws and shall eventually be harvested and sold for commercial purposes, used for beneficial purposes, or stored or disposed in a facility authorized to accept that waste pursuant to this chapter or Division 30 (commencing with Section 40000) of the Public Resources Code.

SEC. 3. Section 25209.13 of the Health and Safety Code is amended to read:

25209.13. (a) A person who intends to operate a solar evaporator shall, before installing the solar evaporator, file a notice of intent with the regional board, using a form prepared by the regional board. The form shall require the person to provide all of the following:

(1) The location of the solar evaporator.

(2) The design of the solar evaporator and the equipment that will be used to operate it.

(3) The maximum anticipated rate at which agricultural drainage water will be discharged to the solar evaporator.

(4) The anticipated rate of accumulation of evaporite salt in the solar evaporator and the anticipated period of time before the salt needs to be removed to ensure the continued effective operation of the evaporator.

(5) Plans for operating the solar evaporator in compliance with this article, including a plan to collect and remove evaporite salt to ensure the continued effective operation of the evaporator.

(6) Groundwater monitoring data that are adequate to establish baseline data for use in comparing subsequent data submitted by the operator pursuant to this article.

(7) Weather data and a water balance analysis sufficient to assess the likelihood of standing water occurring within the solar evaporator.

(8) A brief description of any documents or reports required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), with the appropriate document or report, if required, included as an attachment to the form.

(9) Any other information required or authorized by regulation.

(b) The regional board shall, within 30 calendar days after receiving the notice submitted pursuant to subdivision (a), review the notice of intent for its completeness, inspect, if necessary, the site where the proposed solar evaporator will be located, and notify the operator of whether the notice of intent is complete. If the regional board determines that the notice of intent is not complete, the regional board shall issue a written response to the applicant identifying the reason why it is not complete. If the regional board determines that the notice of intent is complete, the regional board shall notify the operator in writing that the notice of intent is complete.

(c) A person who receives a written notice of completeness pursuant to subdivision (b) shall, before operating the installed solar evaporator, request the regional board to conduct a compliance inspection of the solar evaporator. Within 30 days after receiving a request, the regional board shall inspect the solar evaporator to determine whether it complies with this article. If the regional board finds that the solar evaporator does not comply with this article, the regional board, within 140 days after the inspection, shall issue a written response to the applicant identifying the reasons for noncompliance. Except as provided in subdivision (e), if the regional board finds that the solar evaporator complies with the requirements of this article, the regional board, within 30 days after the inspection, shall issue a written notice of authority to operate to the operator of the solar evaporator. The regional board may include in the authority to operate any associated condition that the regional board deems necessary to ensure compliance with the purposes and requirements of this article.

(d) A person shall not commence the operation of a solar evaporator before one of the following occurs:

(1) The person receives a written notice of authority to operate the solar evaporator pursuant to this section.

(2) The expiration of 140 days after the solar evaporator is inspected pursuant to subdivision (c), and the person has not received a written response from the regional board, identifying reasons for noncompliance.

(e) The regional board shall review an authority to operate issued by the regional board pursuant to this section every five years. The regional board shall renew the authority to operate, unless the regional board finds that the operator of the solar evaporator has not demonstrated compliance with the requirements of this article.

SEC. 4. Section 25209.14 of the Health and Safety Code is amended to read:

25209.14. (a) A person operating a solar evaporator shall submit to the regional board, in April and October of every year, all of the following information:

(1) Bimonthly waterflow data taken immediately prior to discharge to the solar evaporator.

(2) Bimonthly water quality data, as required by the regional board, taken immediately prior to discharge to the solar evaporator.

(3) Semiannual groundwater monitoring data taken from an area in the vicinity of the solar evaporator, as approved by the regional board. Groundwater shall be monitored for salts, selenium, and other elements, as determined by the board, that could adversely affect avian wildlife or beneficial uses of adjacent groundwater.

(b) Notwithstanding subdivision (a), the regional board may do either of the following regarding data collected pursuant to paragraphs (1) and (2) of subdivision (a):

(1) Reduce the data collection schedule two years after data is submitted pursuant to subdivision (a), if the regional board determines that discharge to the solar evaporator has been adequately characterized.

(2) Increase the data collection schedule, if the regional board determines that changes in monitoring results or other changes in the operation of the solar evaporator require more frequent data collection.

SEC. 5. Section 25209.16 of the Health and Safety Code is amended to read:

25209.16. (a) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6 of the Government Code, the adoption or amendment of the regulations required to be adopted pursuant to this article 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.

(b) 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 or amended by the state board pursuant to this article shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until repealed by the state board.

SEC. 6. Section 25209.18 is added to the Health and Safety Code, to read:

25209.18. (a) A person operating a solar evaporator pursuant to a valid notice of authority to operate shall, consistent with subdivision (f) of Section 25209.12, manage the collection and removal of evaporite salt from the solar evaporator as described in the plan prepared pursuant to paragraph (5) of subdivision (a) of Section 25209.13.

(b) If the regional board subsequently determines that accumulated salt needs to be collected and removed from a solar evaporator at a time, or in a manner, that differs from the plan prepared pursuant to paragraph

(5) of subdivision (a) of Section 25209.13, the regional board shall notify the operator in writing and describe the reasons for its determination.

(c) An operator of a solar evaporator who receives a notice pursuant to subdivision (b) may appeal the determination of the regional board. The appeal shall include a response, prepared by an independent registered professional civil engineer or agricultural engineer, to the findings in the notice.

SEC. 7. Section 25209.19 is added to the Health and Safety Code, to read:

25209.19. Within 30 days of an action or failure to act by a regional board pursuant to this article, an aggrieved person may petition the state board to review that action or failure to act. The petition and all other rules and procedures governing the petition shall be the same as in Section 13320 of the Water Code.

CHAPTER 310

An act to amend Sections 1363.03 and 1365.2 of the Civil Code, relating to common interest developments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 1363.03 of the Civil Code is amended to read:

1363.03. (a) An association shall adopt rules, in accordance with the procedures prescribed by Article 4 (commencing with Section 1357.100) of Chapter 2, that do all of the following:

(1) Ensure that if any candidate or member advocating a point of view is provided access to association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the board, for purposes that are reasonably related to the election. The association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the association, is responsible for that content.

(2) Ensure access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including

those not endorsed by the board, for purposes reasonably related to the election.

(3) Specify the qualifications for candidates for the board of directors and any other elected position, and procedures for the nomination of candidates, consistent with the governing documents. A nomination or election procedure shall not be deemed reasonable if it disallows any member of the association from nominating himself or herself for election to the board of directors.

(4) Specify the qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close, consistent with the governing documents.

(5) Specify a method of selecting one or three independent third parties as inspector, or inspectors, of election utilizing one of the following methods:

(A) Appointment of the inspector or inspectors by the board.

(B) Election of the inspector or inspectors by the members of the association.

(C) Any other method for selecting the inspector or inspectors.

(6) Allow the inspector, or inspectors, to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

(b) Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of members of the association board of directors, amendments to the governing documents, or the grant of exclusive use of common area property pursuant to Section 1363.07 shall be held by secret ballot in accordance with the procedures set forth in this section. A quorum shall be required only if so stated in the governing documents of the association or other provisions of law. If a quorum is required by the governing documents, each ballot received by the inspector of elections shall be treated as a member present at a meeting for purposes of establishing a quorum. An association shall allow for cumulative voting using the secret ballot procedures provided in this section, if cumulative voting is provided for in the governing documents.

(c) (1) The association shall select an independent third party or parties as an inspector of election. The number of inspectors of election shall be one or three.

(2) For the purposes of this section, an independent third party includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party may be a member of the

association, but may not be a member of the board of directors or a candidate for the board of directors or related to a member of the board of directors or a candidate for the board of directors. An independent third party may not be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the association for any compensable services unless expressly authorized by rules of the association adopted pursuant to paragraph (5) of subdivision (a).

(3) The inspector or inspectors of election shall do all of the following:

(A) Determine the number of memberships entitled to vote and the voting power of each.

(B) Determine the authenticity, validity, and effect of proxies, if any.

(C) Receive ballots.

(D) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

(E) Count and tabulate all votes.

(F) Determine when the polls shall close, consistent with the governing documents.

(G) Determine the tabulated results of the election.

(H) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section, the Corporations Code, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.

(4) An inspector of election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. If there are three inspectors of election, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report.

(d) (1) For purposes of this section, the following definitions shall apply:

(A) "Proxy" means a written authorization signed by a member or the authorized representative of the member that gives another member or members the power to vote on behalf of that member.

(B) "Signed" means the placing of the member's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the member or authorized representative of the member.

(2) Proxies shall not be construed or used in lieu of a ballot. An association may use proxies if permitted or required by the bylaws of the association and if those proxies meet the requirements of this article, other laws, and the association's governing documents, but the association shall not be required to prepare or distribute proxies pursuant to this section.

(3) Any instruction given in a proxy issued for an election that directs the manner in which the proxyholder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxyholder to retain. The proxyholder shall cast the member's vote by secret ballot. The proxy may be revoked by the member prior to the receipt of the ballot by the inspector of elections as described in Section 7613 of the Corporations Code.

(e) Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the association to every member not less than 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following:

(1) The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter shall sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote.

(2) The second envelope is addressed to the inspector or inspectors of election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of election. The member may request a receipt for delivery.

(f) All votes shall be counted and tabulated by the inspector or inspectors of election or his or her designee in public at a properly noticed open meeting of the board of directors or members. Any candidate or other member of the association may witness the counting and tabulation of the votes. No person, including a member of the association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The inspector of election, or his or her designee, may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated. Once a secret ballot is received by the inspector of elections, it shall be irrevocable.

(g) The tabulated results of the election shall be promptly reported to the board of directors of the association and shall be recorded in the minutes of the next meeting of the board of directors and shall be available for review by members of the association. Within 15 days of the election, the board shall publicize the tabulated results of the election in a communication directed to all members.

(h) The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the

inspector or inspectors until after the tabulation of the vote, and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the association. If there is a recount or other challenge to the election process, the inspector or inspectors of election shall, upon written request, make the ballots available for inspection and review by an association member or his or her authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

(i) After the transfer of the ballots to the association, the ballots shall be stored by the association in a secure place for no less than one year after the date of the election.

(j) Notwithstanding any other provision of law, the rules adopted pursuant to this section may provide for the nomination of candidates from the floor of membership meetings or nomination by any other manner. Those rules may permit write-in candidates for ballots.

(k) Except for the meeting to count the votes required in subdivision (f), an election may be conducted entirely by mail unless otherwise specified in the governing documents.

(*l*) The provisions of this section apply to both incorporated and unincorporated associations, notwithstanding any contrary provision of the governing documents.

(m) The procedures set forth in this section shall apply to votes cast directly by the membership, but do not apply to votes cast by delegates or other elected representatives.

(n) In the event of a conflict between this section and the provisions of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) relating to elections, the provisions of this section shall prevail.

(o) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2006.

SEC. 2. Section 1365.2 of the Civil Code is amended to read:

1365.2. (a) For the purposes of this section, the following definitions shall apply:

(1) "Association records" means all of the following:

(A) Any financial document required to be provided to a member in Section 1365.

(B) Any financial document or statement required to be provided in Section 1368.

(C) Interim financial statements, periodic or as compiled, containing any of the following:

(i) Balance sheet.

(ii) Income and expense statement.

(iii) Budget comparison.

(iv) General ledger. A "general ledger" is a report that shows all transactions that occurred in an association account over a specified period of time.

The records described in this subparagraph shall be prepared in accordance with an accrual or modified accrual basis of accounting.

(D) Executed contracts not otherwise privileged under law.

(E) Written board approval of vendor or contractor proposals or invoices.

(F) State and federal tax returns.

(G) Reserve account balances and records of payments made from reserve accounts.

(H) Agendas and minutes of meetings of the members, the board of directors and any committees appointed by the board of directors pursuant to Section 7212 of the Corporations Code; excluding, however, agendas, minutes, and other information from executive sessions of the board of directors as described in Section 1363.05.

(I) (i) Membership lists, including name, property address, and mailing address, if the conditions set forth in clause (ii) are met and except as otherwise provided in clause (iii).

(ii) The member requesting the list shall state the purpose for which the list is requested which purpose shall be reasonably related to the requester's interest as a member. If the association reasonably believes that the information in the list will be used for another purpose, it may deny the member access to the list. If the request is denied, in any subsequent action brought by the member under subdivision (f), the association shall have the burden to prove that the member would have allowed use of the information for purposes unrelated to his or her interest as a member.

(iii) A member of the association may opt out of the sharing of his or her name, property address, and mailing address by notifying the association in writing that he or she prefers to be contacted via the alternative process described in subdivision (c) of Section 8330 of the Corporations Code. This opt-out shall remain in effect until changed by the member.

(J) Check registers.

(2) "Enhanced association records" means invoices, receipts and canceled checks for payments made by the association, purchase orders approved by the association, credit card statements for credit cards issued in the name of the association, statements for services rendered, and reimbursement requests submitted to the association, provided that the person submitting the reimbursement request shall be solely responsible for removing all personal identification information from the request.

(b) (1) The association shall make available association records and enhanced association records for the time periods and within the timeframes provided in subdivisions (i) and (j) for inspection and copying by a member of the association, or the member's designated representative. The association may bill the requesting member for the direct and actual cost of copying requested documents. The association shall inform the member of the amount of the copying costs before copying the requested documents.

(2) A member of the association may designate another person to inspect and copy the specified association records on the member's behalf. The member shall make this designation in writing.

(c) (1) The association shall make the specified association records available for inspection and copying in the association's business office within the common interest development.

(2) If the association does not have a business office within the development, the association shall make the specified association records available for inspection and copying at a place that the requesting member and the association agree upon.

(3) If the association and the requesting member cannot agree upon a place for inspection and copying pursuant to paragraph (2), or if the requesting member submits a written request directly to the association for copies of specifically identified records, the association may satisfy the requirement to make the association records available for inspection and copying by mailing copies of the specifically identified records to the member by first-class mail within the timeframes set forth in subdivision (j).

(4) The association may bill the requesting member for the direct and actual cost of copying and mailing requested documents. The association shall inform the member of the amount of the copying and mailing costs, and the member shall agree to pay those costs, before copying and sending the requested documents.

(5) In addition to the direct and actual costs of copying and mailing, the association may bill the requesting member an amount not in excess of ten dollars ($10) per hour, and not to exceed two hundred dollars ($200) total per written request, for the time actually and reasonably involved in redacting the enhanced association records as provided in paragraph (2) of subdivision (a). The association shall inform the member of the estimated costs, and the member shall agree to pay those costs, before retrieving the requested documents.

(d) (1) Except as provided in paragraph (2), the association may withhold or redact information from the association records for any of the following reasons:

(A) The release of the information is reasonably likely to lead to identity theft. For the purposes of this section, "identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property. Examples of information that may be withheld or redacted pursuant to this paragraph include bank account numbers of members or vendors, social security or tax identification numbers, and check, stock, and credit card numbers.

(B) The release of the information is reasonably likely to lead to fraud in connection with the association.

(C) The information is privileged under law. Examples include documents subject to attorney-client privilege or relating to litigation in which the association is or may become involved, and confidential settlement agreements.

(D) The release of the information is reasonably likely to compromise the privacy of an individual member of the association.

(E) The information contains any of the following:

(i) Records of a-la-carte goods or services provided to individual members of the association for which the association received monetary consideration other than assessments.

(ii) Records of disciplinary actions, collection activities, or payment plans of members other than the member requesting the records.

(iii) Any person's personal identification information, including, without limitation, social security number, tax identification number, driver's license number, credit card account numbers, bank account number, and bank routing number.

(iv) Agendas, minutes, and other information from executive sessions of the board of directors as described in Section 1363.05, except for executed contracts not otherwise privileged. Privileged contracts shall not include contracts for maintenance, management, or legal services.

(v) Personnel records other than the payroll records required to be provided under paragraph (2).

(vi) Interior architectural plans, including security features, for individual homes.

(2) Except as provided by the attorney-client privilege, the association may not withhold or redact information concerning the compensation paid to employees, vendors, or contractors. Compensation information for individual employees shall be set forth by job classification or title, not by the employee's name, social security number, or other personal information.

(3) No association, officer, director, employee, agent or volunteer of an association shall be liable for damages to a member of the association or any third party as the result of identity theft or other breach of privacy because of the failure to withhold or redact that member's information

under this subdivision unless the failure to withhold or redact the information was intentional, willful, or negligent.

(4) If requested by the requesting member, an association that denies or redacts records shall provide a written explanation specifying the legal basis for withholding or redacting the requested records.

(e) (1) The association records, and any information from them, may not be sold, used for a commercial purpose, or used for any other purpose not reasonably related to a member's interest as a member. An association may bring an action against any person who violates this section for injunctive relief and for actual damages to the association caused by the violation.

(2) This section may not be construed to limit the right of an association to damages for misuse of information obtained from the association records pursuant to this section or to limit the right of an association to injunctive relief to stop the misuse of this information.

(3) An association shall be entitled to recover reasonable costs and expenses, including reasonable attorney's fees, in a successful action to enforce its rights under this section.

(f) A member of an association may bring an action to enforce the member's right to inspect and copy the association records. If a court finds that the association unreasonably withheld access to the association records, the court shall award the member reasonable costs and expenses, including reasonable attorney's fees, and may assess a civil penalty of up to five hundred dollars ($500) for the denial of each separate written request. A cause of action under this section may be brought in small claims court if the amount of the demand does not exceed the jurisdiction of that court. A prevailing association may recover any costs if the court finds the action to be frivolous, unreasonable, or without foundation.

(g) The provisions of this section apply to any community service organization or similar entity, as defined in paragraph (3) of subdivision (c) of Section 1368, that is related to the association, and this section shall operate to give a member of the community service organization or similar entity a right to inspect and copy the records of that organization or entity equivalent to that granted to association members by this section.

(h) Requesting parties shall have the option of receiving specifically identified records by electronic transmission or machine-readable storage media as long as those records can be transmitted in a redacted format that does not allow the records to be altered. The cost of duplication shall be limited to the direct cost of producing the copy of a record in that electronic format. The association may deliver specifically identified records by electronic transmission or machine-readable storage media

as long as those records can be transmitted in a redacted format that prevents the records from being altered.

(i) The time periods for which specified records shall be provided is as follows:

(1) Association records shall be made available for the current fiscal year and for each of the previous two fiscal years.

(2) Minutes of member and board meetings shall be permanently made available. If a committee has decisionmaking authority, minutes of the meetings of that committee shall be made available commencing January 1, 2007, and shall thereafter be permanently made available.

(j) The timeframes in which access to specified records shall be provided to a requesting member are as follows:

(1) Association records prepared during the current fiscal year, within 10 business days following the association's receipt of the request.

(2) Association records prepared during the previous two fiscal years, within 30 calendar days following the association's receipt of the request.

(3) Any record or statement available pursuant to Section 1365 or 1368, within the timeframe specified therein.

(4) Minutes of member and board meetings, within the timeframe specified in subdivision (d) of Section 1363.05.

(5) Minutes of meetings of committees with decisionmaking authority for meetings commencing on or after January 1, 2007, within 15 calendar days following approval.

(6) Membership list, within the timeframe specified in Section 8330 of the Corporations Code.

(k) There shall be no liability pursuant to this section for an association that fails to retain records for the periods specified in subdivision (i) that were created prior to January 1, 2006.

(*l*) As applied to an association and its members, the provisions of this section are intended to supersede the provisions of Sections 8330 and 8333 of the Corporations Code to the extent those sections are inconsistent.

(m) The provisions of this section shall not apply to any common interest development in which separate interests are being offered for sale by a subdivider under the authority of a public report issued by the Department of Real Estate so long as the subdivider or all subdividers offering those separate interests for sale, or any employees of those subdividers or any other person who receives direct or indirect compensation from any of those subdividers, comprise a majority of the members of the board of directors of the association. Notwithstanding the foregoing, this section shall apply to that common interest development no later than 10 years after the close of escrow for the first

sale of a separate interest to a member of the general public pursuant to the public report issued for the first phase of the development.

(n) This section shall become operative on July 1, 2006.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that these changes apply to elections conducted by common interest developments as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 311

An act to amend Sections 1268.350 and 1268.360 of the Code of Civil Procedure, to amend Section 8333 of the Streets and Highways Code, and to amend Sections 1808, 1808.1, 11101, 12517.3, 12811, and 24400 of, the Vehicle Code, relating to government.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 1268.350 of the Code of Civil Procedure is amended to read:

1268.350. (a) As used in this section, "apportionment rate" means the apportionment rate calculated by the Controller as the rate of earnings by the Surplus Money Investment Fund for each calendar quarter.

(b) The rate of interest payable under this article for each calendar quarter, or fraction thereof, for which interest is due, shall be the apportionment rate for the immediately preceding calendar quarter.

(c) Each district office of the Department of Transportation shall quote the apportionment rate to any person upon request.

SEC. 2. Section 1268.360 of the Code of Civil Procedure is amended to read:

1268.360. The interest payable for each calendar quarter shall draw interest, computed as prescribed by Section 1268.350, in each succeeding calendar quarter for which interest is due.

SEC. 3. Section 8333 of the Streets and Highways Code is amended to read:

8333. The legislative body of a local agency may summarily vacate a public service easement in any of the following cases:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.

(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

SEC. 4. Section 1808 of the Vehicle Code is amended to read:

1808. (a) Except where a specific provision of law prohibits the disclosure of records or information or provides for confidentiality, all records of the department relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.

(b) The department shall make available or disclose abstracts of convictions and abstracts of accident reports required to be sent to the department in Sacramento, as described in subdivision (a), if the date of the occurrence is not later than the following:

(1) Ten years for a violation pursuant to Section 23140, 23152, or 23153.

(2) Seven years for a violation designated as two points pursuant to Section 12810, except as provided in paragraph (1) of this subdivision.

(3) Three years for accidents and all other violations.

(c) The department shall make available or disclose suspensions and revocations of the driving privilege while the suspension or revocation is in effect and for three years following termination of the action or reinstatement of the privilege, except that driver's license suspension actions taken pursuant to Sections 13202.6 and 13202.7, or Section 256 or 11350.6 of the Welfare and Institutions Code shall be disclosed only during the actual time period in which the suspension is in effect.

(d) The department shall not make available or disclose a suspension or revocation that has been judicially set aside or stayed.

(e) The department shall not make available or disclose personal information about a person unless the disclosure is in compliance with the Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). However, a disclosure is subject to the prohibition in paragraph (2) of subdivision (a) of Section 12800.5.

(f) The department shall make available or disclose to the courts and law enforcement agencies a conviction of Section 23103, as specified in Section 23103.5, or a conviction of Section 23140, 23152, or 23153, or Section 655 of the Harbors and Navigation Code, or paragraph (1) of subdivision (c) of Section 192 of the Penal Code for a period of 10 years from the date of the offense for the purpose of imposing penalties mandated by this code, or by other applicable provisions of California law.

(g) The department shall make available or disclose to the courts and law enforcement agencies a conviction of Section 191.5, or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, punished as a felony, for the purpose of imposing penalties mandated by Section 23550.5, or by other applicable provisions of California law.

SEC. 5. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives a vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives a vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncancelled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive a vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of a vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The report shall be presented upon demand to an authorized

representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull-notice system.

(e) For the purposes of the pull-notice system and periodic report process required by subdivisions (b) and (c), an owner, other than an owner-operator as defined in Section 34624, and an employer who drives a vehicle described in subdivision (k) shall be enrolled as if he or she were an employee. A family member and a volunteer driver who drives a vehicle described in subdivision (k) shall also be enrolled as if he or she were an employee.

(f) An employer who, after receiving a driving record pursuant to this section, employs or continues to employ as a driver a person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by confinement in a county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that confinement and fine.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. Funds shall not be allocated pursuant to Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator that the Department of the California Highway Patrol has not certified pursuant to this section.

(h) A request to participate in the pull-notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. An employer who qualifies pursuant to Section 1812 shall be exempt from any fee required pursuant to this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports to an employer by mail or via an electronic delivery method, as required by subdivision (c), on a regular basis without the need for individual requests.

(j) (1) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull-notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive a vehicle specified in subdivision (k). A report is current if it was issued less than six months prior to the date the employer employs the driver.

(2) For the purposes of this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. "Casual driver" does not include a driver who operates a vehicle that requires a passenger transportation endorsement.

(k) This section applies to a vehicle for the operation of which the driver is required to have a class A or class B driver's license, a class C license with a hazardous materials endorsement, a class C license issued pursuant to Section 12814.7, or a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5, or a passenger vehicle having a seating capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission.

(*l*) This section shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any purpose.

(m) A motor carrier who contracts with a person to drive a vehicle described in subdivision (k) that is owned by, or leased to, that motor carrier, shall be subject to subdivisions (a), (b), (c), (d), (f), (j), (k), and (*l*) and the employer obligations in those subdivisions.

SEC. 6. Section 11101 of the Vehicle Code is amended to read:

11101. (a) This chapter does not apply to any of the following:

(1) Public schools or educational institutions in which driving instruction is part of the curriculum.

(2) Nonprofit public service organizations offering instruction without a tuition fee.

(3) Nonprofit organizations engaged exclusively in giving off-the-highway instruction in the operation of motorcycles, if the course of instruction is approved by the National Highway Traffic Safety Administration and is not designed to prepare students for examination by the department for an M1 or M2 drivers license or endorsement.

(4) Commercial schools giving only off-the-highway instruction in the operation of special construction equipment, as defined in this code.

(5) Vehicle dealers or their salesmen giving instruction without charge to purchasers of motor vehicles.

(6) Employers giving instruction to their employees.

(7) Commercial schools engaged exclusively in giving off-the-highway instruction in the operation of racing vehicles or in advanced driving skills to persons holding valid drivers' licenses, except whenever that instruction is given to persons who are being prepared for examination by the department for any class of driver's license.

(b) For purposes of this section, "racing vehicle" means a motor vehicle of a type that is used exclusively in a contest of speed and that is not intended for use on the highways.

(c) (1) Nothing in this chapter shall be construed to direct or restrict courses of instruction in driver education offered by private secondary schools or to require the use of credentialed or certified instructors in driver education courses offered by private secondary schools.

(2) For the purposes of this section, private secondary schools are those subject to Sections 33190 and 48222 of the Education Code.

SEC. 7. Section 12517.3 of the Vehicle Code is amended to read:

12517.3. (a) (1) An applicant for an original certificate to drive a schoolbus, school pupil activity bus, youth bus, or general public paratransit vehicle shall be fingerprinted by the Department of the California Highway Patrol, on a form provided or approved by the Department of the California Highway Patrol for submission to the Department of Justice, utilizing the Applicant Expedite Service or an electronic fingerprinting system.

(2) An applicant fingerprint form shall be processed and returned to the office of the Department of the California Highway Patrol from which it originated not later than 15 working days from the date on which the fingerprint form was received by the Department of Justice, unless circumstances, other than the administrative duties of the Department of Justice, warrant further investigation.

(3) Applicant fingerprints that are submitted by utilizing an electronic fingerprinting system shall be processed and returned to the appropriate office of the Department of the California Highway Patrol within three working days.

(4) The commissioner may utilize the California Law Enforcement Telecommunications System to conduct a preliminary criminal and driver history check to determine an applicant's eligibility to hold an original or renewal certificate to drive a schoolbus, school pupil activity bus, youth bus, or general public paratransit vehicle.

(b) (1) Notwithstanding subdivision (a), an applicant for an original certificate to drive a schoolbus, school pupil activity bus, youth bus, or general public paratransit vehicle may be fingerprinted by a public law

enforcement agency, a school district, or a county office of education utilizing an electronic fingerprinting system with terminals managed by the Department of Justice.

(2) The Department of Justice shall provide the fingerprint information processed pursuant to this subdivision to the appropriate office of the Department of the California Highway Patrol within three working days of receipt of the information.

(3) An applicant for an original certificate to drive an ambulance shall submit a completed fingerprint card to the department.

SEC. 8. Section 12811 of the Vehicle Code, as amended by Section 1 of Chapter 665 of the Statutes of 2005, is amended to read:

12811. (a) (1) (A) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall contain the distinguishing number assigned to the applicant, the date of expiration, the true full name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

(B) Each license shall also contain a space for the endorsement of a record of each suspension or revocation thereof.

(C) The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(2) In addition to the requirements of paragraph (1), a license issued to a person under 18 years of age shall display the words "provisional until age 18."

(b) (1) The front of an application for an original or renewal of a driver's license or identification card shall contain a space for an applicant to give his or her consent to be an organ and tissue donor upon death. An applicant who gives consent shall be directed to read a statement on the back of the application that shall contain the following statement:

"If you marked on the front of the application that you want to be an organ and tissue donor upon death, your consent shall serve as a legally binding document as outlined under the California Uniform Anatomical Gift Act. Except in the case where the donor is under the age of 18, the donation does not require the consent of any other person. For donors under the age of 18, the legal guardian of the donor shall make the final decision regarding the donation. If you want to change your decision to consent in the future, or if you want to limit the donation to specific

organs or tissues, you must contact Donate Life California by mail at 1760 Creekside Oaks Drive, #160, Sacramento, CA 95833, or through the World Wide Web at www.donateLIFEcalifornia.org, or www.doneVIDAcalifornia.org."

(2) Notwithstanding any other provision of law, a person under age 18 may register as a donor. However, the legal guardian of that person shall make the final decision regarding the donation.

(3) The department shall collect donor designation information on all applications for an original or renewal driver's license or identification card.

(4) The department shall print the word "DONOR" or another appropriate designation on the face of a driver's license or identification card to a person who registered as a donor on a form issued pursuant to this section.

(5) On a weekly basis, the department shall electronically transmit to Donate Life California, a nonprofit organization established and designated as the California Organ and Tissue Donor Registrar pursuant to Section 7152.7 of the Health and Safety Code, all of the following information on every applicant that has indicated his or her willingness to participate in the organ donation program:

(A) His or her true full name.

(B) His or her residence or mailing address.

(C) His or her date of birth.

(D) His or her California driver's license number or identification card number.

(6) (A) A person who applies for an original or renewal driver's license or identification card may designate a voluntary contribution of two dollars ($2) for the purpose of promoting and supporting organ and tissue donation. This contribution shall be collected by the department, and treated as a voluntary contribution to Donate Life California and not as a fee for the issuance of a driver's license or identification card.

(B) The department may use the donations collected pursuant to this paragraph to cover its actual administrative costs incurred pursuant to paragraphs (3) to (5), inclusive. The department shall deposit all revenue derived pursuant to this paragraph and remaining after the department's deduction for administrative costs in the Donate Life California Trust Subaccount, that is hereby created in the Motor Vehicle Account in the State Transportation Fund. Notwithstanding Section 13340 of the Government Code, all revenue in this subaccount is continuously appropriated, without regard to fiscal years, to the Controller for allocation to Donate Life California and shall be expended for the purpose of increasing participation in organ donation programs.

(7) The enrollment form shall be posted on the Internet Web sites for the department and the California Health and Human Services Agency.

(8) The enrollment shall constitute a legal document pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code) and shall remain binding after the donor's death despite any express desires of next of kin opposed to the donation. Except as provided in paragraph (2) of subdivision (b), the donation does not require the consent of any other person.

(9) Donate Life California shall ensure that all additions and deletions to the California Organ and Tissue Donor Registry, established pursuant to Section 7152.7 of the Health and Safety Code, shall occur within 30 days of receipt.

(10) Information obtained by Donate Life California for the purposes of this subdivision shall be used for these purposes only and shall not be disseminated further by Donate Life California.

(c) A public entity or employee shall not be liable for loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the form provided pursuant to subdivision (b).

(d) A contract shall not be awarded to a nongovernmental entity for the processing of driver's licenses, unless the contract conforms to all applicable state contracting laws and all applicable procedures set forth in the State Contracting Manual.

(e) This section shall become operative on July 1, 2006.

SEC. 9. Section 24400 of the Vehicle Code is amended to read:

24400. (a) A motor vehicle, other than a motorcycle, shall be:

(1) Equipped with at least two headlamps, with at least one on each side of the front of the vehicle, and, except as to vehicles registered prior to January 1, 1930, they shall be located directly above or in advance of the front axle of the vehicle. The headlamps and every light source in any headlamp unit shall be located at a height of not more than 54 inches nor less than 22 inches.

(2) Operated during darkness, or inclement weather, or both, with at least two lighted headlamps that comply with paragraph (1).

(b) As used in paragraph (2) of subdivision (a), "inclement weather" is a weather condition that is either of the following:

(1) A condition that prevents a driver of a motor vehicle from clearly discerning a person or another motor vehicle on the highway from a distance of 1,000 feet.

(2) A condition requiring the windshield wipers to be in continuous use due to rain, mist, snow, fog, or other precipitation or atmospheric moisture.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 312

An act to amend and repeal Section 10236.14 of, and to add Section 10235.35 to, the Insurance Code, relating to long-term care insurance.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 10235.35 is added to the Insurance Code, to read:

10235.35. (a) Notwithstanding any other provision of law, the commissioner may require the administration by an insurer of the contingent benefit upon lapse, as described in Section 26 (A), (D) (3), (E), (F), (G), and (J) of the Long-Term Care Insurance Model Regulation promulgated by the National Association of Insurance Commissioners, as adopted in October 2000, as a condition of approval or acknowledgment of a rate adjustment for a block of business for which the contingent benefit upon lapse is not otherwise available.

(b) The insurer shall notify policyholders and certificate holders of the contingent benefit upon lapse when required by the commissioner in conjunction with the implementation of a rate adjustment. The commissioner may require an insurer who files for such a rate adjustment to allow policyholders and certificate holders to reduce coverage pursuant to Section 10235.50 to avoid an increase in the policy's premium amount.

(c) The commissioner may also approve any other alternative mechanism filed by the insurer in lieu of the contingent benefit upon lapse.

SEC. 2. Section 10236.14 of the Insurance Code, as added by Section 9 of Chapter 812 of the Statutes of 2000, is amended to read:

10236.14. Approval of all premium rate schedule increases shall be subject to the following requirements:

(a) Premium rate schedule increases shall demonstrate that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(1) The accumulated value of the initial earned premium times 58 percent.

(2) Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis.

(3) The present value of future projected initial earned premiums times 58 percent.

(4) Eighty-five percent of the present value of future projected premiums not in paragraph (3) on an earned basis.

(b) In the event the commissioner determines that a premium rate increase is justified due to changes in laws or regulations that are retroactively applicable to long-term care insurance previously sold in this state, a premium rate schedule increase may be approved if the increase provides that 70 percent of the present value of projected additional premiums shall be returned to policyholders in benefits and the other requirements applicable to other premium rate schedule increases are met.

(c) All present and accumulated values used to determine rate increases should use the maximum valuation interest rate for contract reserves. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(d) If the requested premium rate schedule increase on any new policy form approved under Section 10236.11 exceeds 15 percent or if the requested premium rate schedule increase on any policy form approved under Section 10236.11 plus all increases occurring after July 1, 2002, in the premium rate schedule for the same policy form exceed 15 percent, no request for a rate increase on any policy form shall be approved by the commissioner except as follows: all the insurer's individual experience on long-term care policy forms issued in this state that have been approved pursuant to Section 10236.11 are pooled together to project future claims experience and the combined experience satisfies the requirements in subdivision (a). An insurer is not precluded from filing requests for premium rate schedule increases on all of its policy forms if the combined experiences after pooling all applicable policy forms satisfies the requirements of subdivision (a).

(e) No approval for an increase in the premium schedule shall be granted unless the actuary performing the review for the commissioner certifies that if the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately

adverse conditions, are realized, no further premium rate schedule increases are anticipated. The certification may rely on supporting data in the filing.

(f) The provisions of this section are applicable to all individual and group policies issued in this state on or after July 1, 2002.

SEC. 3. Section 10236.14 of the Insurance Code, as added by Section 10 of Chapter 812 of the Statutes of 2000, is repealed.

CHAPTER 313

An act to amend Section 51871.5 of the Education Code, relating to education technology.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 51871.5 of the Education Code is amended to read:

51871.5. (a) It is the intent of the Legislature that education technology planning be accomplished in the most comprehensive manner possible. To that end, the current practice of developing education technology plans for each funding program should be replaced with a comprehensive local planning process that will enable school districts to apply for grants on an ongoing basis and assist in utilizing available education technology programs.

(b) On or after January 1, 2005, as a precondition to receiving a technology grant administered by the department, a school district shall have a current three- to five-year education technology plan. The state board may waive this requirement if it determines that the applicant school district made a good faith effort to develop a plan, but for reasons beyond its control, the district cannot develop the plan before receipt of the technology grant.

(c) On or before July 1, 2007, the Superintendent shall develop guidelines and criteria for inclusion in the education technology plan required pursuant to subdivision (b). The guidelines and criteria shall include a component to educate pupils and teachers on the appropriate and ethical use of information technology in the classroom, Internet safety, the manner in which to avoid committing plagiarism, the concept, purpose, and significance of a copyright so that pupils are equipped with the skills necessary to distinguish lawful from unlawful online

downloading, and the implications of illegal peer-to-peer network file sharing.

A school district that, on July 1, 2008, has a current three-to-five year education technology plan that complies with subdivision (b) is not required to comply with this subdivision until after its plan expires or is voluntarily replaced.

(d) On or after January 1, 2005, the Superintendent shall ensure that each school district has access to technical assistance and an approved online technology plan builder that the department determines is in compliance with state and federal requirements.

(e) The department shall maintain a record of school districts that have a three- to five-year education technology plan and shall make that information available to interested public agencies.

CHAPTER 314

An act to amend Section 32128 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

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

(a) The participation of nonemployee members of hospital medical staff in the medical peer review activities of hospitals is critical to preserving the highest standards of hospital medical practice and patient care.

(b) Participation in medical peer review activities exposes nonemployee members of the health care district medical staff to the risk of involvement in civil actions arising out of those peer review activities.

(c) California hospitals have traditionally provided nonemployee physicians, serving as members of hospital peer review committees, with indemnification for damages and for costs associated with the legal defense of civil actions arising out of their peer review activities. However, a recent Attorney General's Opinion calls into question the specific authority of health care districts, pursuant to the local Health Care District Law (Division 23 (commencing with Section 32000) of the Health and Safety Code), to provide this indemnification.

(d) The risks and costs of involvement in litigation would make it extremely difficult for health care districts to obtain the participation of nonemployee members of their hospital medical staff in peer review activities. The loss of active peer review bodies would render district hospitals ineligible for certification by the Joint Commission on the Accreditation of Hospitals and Health Care Organizations, threaten district hospitals' contracts with liability insurance carriers, and their status as Medicare providers, and could potentially invalidate their contracts with numerous health plans.

(e) To ensure that nonemployee members of the medical staff will continue to participate in the medical peer review activities of health care districts, it is necessary for districts to provide conditional indemnification for damages and for costs associated with the legal defense of civil actions arising out of participation in those peer review activities.

SEC. 2. Section 32128 of the Health and Safety Code is amended to read:

32128. (a) The rules of the hospital, established by the board of directors pursuant to this article, shall include all of the following:

(1) Provision for the organization of physicians and surgeons, podiatrists, and dentists licensed to practice in this state who are permitted to practice in the hospital into a formal medical staff, with appropriate officers and bylaws and with staff appointments on an annual or biennial basis.

(2) Provision for a procedure for appointment and reappointment of medical staff as provided by the standards of the Joint Commission on Accreditation of Healthcare Organizations.

(3) Provisions that the medical staff shall be self-governing with respect to the professional work performed in the hospital; that the medical staff shall meet in accordance with the minimum requirements of the Joint Commission on Accreditation of Healthcare Organizations; and that the medical records of the patients shall be the basis for such review and analysis.

(4) Provision that accurate and complete medical records be prepared and maintained for all patients.

For purposes of this paragraph medical records include, but are not limited to, identification data, personal and family history, history of present illness, physical examination, special examinations, professional or working diagnoses, treatment, gross and microscopic pathological findings, progress notes, final diagnosis, condition on discharge, and other matters as the medical staff shall determine.

(5) Limitations with respect to the practice of medicine and surgery in the hospital as the board of directors may find to be in the best interests

of the public health and welfare, including appropriate provision for proof of ability to respond in damages by applicants for staff membership, as long as no duly licensed physician and surgeon is excluded from staff membership solely because he or she is licensed by the Osteopathic Medical Board of California.

(b) Notwithstanding any other provision of law, the board of directors may indemnify for damages and for costs associated with the legal defense of any nonemployee member of the medical staff when named as a defendant in a civil action directly arising out of opinions rendered, statements made, or actions taken as a necessary part of participation in the medical peer review activities of the district. This provision for indemnification for damages shall not include any award of punitive or exemplary damages against any nonemployee member of the medical staff. If the plaintiff prevails in a claim for punitive or exemplary damages against a nonemployee member of the medical staff, the defendant, at the option of the board of directors of the district, shall be liable to the district for all the costs incurred in providing representation to the defendant.

(c) Notwithstanding subdivision (b) or any other provision of law, a district is authorized to pay that part of a judgment that is for punitive or exemplary damages against a nonemployee member of the medical staff arising out of participation in peer review activities, if the board of directors of the district, in its discretion, finds all of the following:

(1) The judgment is based on opinions rendered, statements made, or actions taken as a necessary part of participation in the medical peer review activities of the district.

(2) At the time of rendering of the opinions, making the statements, or taking the actions giving rise to the liability, the nonemployee member of the medical staff was acting in good faith, without actual malice, and in the apparent best interests of the district.

(3) Payment of the claim or judgment against the nonemployee member staff would be in the best interests of the district.

(d) The rules of the hospital shall, insofar as consistent with this article, be in accord with and contain minimum standards not less than the rules and standards of private or voluntary hospitals. Unless specifically prohibited by law, the board of directors may adopt other rules which could be lawfully adopted by private or voluntary hospitals.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 315

An act to amend Sections 358, 478, and 504 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION. 1. Section 358 of the Streets and Highways Code is amended to read:

358. (a) Route 58 is from:

(1) Route 101 near Santa Margarita to Route 33.

(2) Route 33 to Route 43.

(3) Route 43 to Route 99.

(4) Route 99 to Route 15 near Barstow via Bakersfield and Mojave.

(b) Upon a determination by the commission that it is in the best interests of the state to do so, the commission may, upon terms and conditions approved by it, relinquish to the City of Bakersfield or the County of Kern the portion of Route 58 that is located within the city limits of that city if the city or county agrees to accept it. The following conditions shall apply upon relinquishment:

(1) The relinquishment shall become effective on the date following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, the relinquished portion of Route 58 shall cease to be a state highway.

(3) The portion of Route 58 relinquished under this subdivision shall be ineligible for future adoption under Section 81.

(4) For the portion of Route 58 that is relinquished under this subdivision, the City of Bakersfield or the County of Kern shall install and maintain within the jurisdiction of the city signs directing motorists to the continuation of Route 58.

SEC. 2. Section 478 of the Streets and Highways Code is amended to read:

478. (a) Route 178 is from:

(1) Bakersfield to Route 14 near Freeman via Walker Pass.

(2) Route 14 near Freeman to Route 127.

(3) Route 127 to the Nevada state line in Pahrump Valley.

(b) Upon a determination by the commission that it is in the best interests of the state to do so, the commission may, upon terms and conditions approved by it, relinquish to the City of Bakersfield the portion of Route 178 that is located within the city limits of that city if the city agrees to accept it. The following conditions shall apply upon relinquishment:

(1) The relinquishment shall become effective on the date following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, the relinquished portion of Route 178 shall cease to be a state highway.

(3) The portion of Route 178 relinquished under this subdivision shall be ineligible for future adoption under Section 81.

(4) For the portion of Route 178 that is relinquished under this subdivision, the City of Bakersfield shall install and maintain within its jurisdiction signs directing motorists to the continuation of Route 178.

SEC. 3. Section 504 of the Streets and Highways Code is amended to read:

504. (a) Route 204 is from Route 58 to Route 99 near Bakersfield via Union Avenue and Golden State Avenue.

(b) Upon a determination by the commission that it is in the best interests of the state to do so, the commission may, upon terms and conditions approved by it, relinquish to the City of Bakersfield the portion of Route 204 that is located within the city limits of that city if the city agrees to accept it. The following conditions shall apply upon relinquishment:

(1) The relinquishment shall become effective on the date following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, the relinquished portion of Route 204 shall cease to be a state highway.

(3) The portion of Route 204 relinquished under this subdivision shall be ineligible for future adoption under Section 81.

CHAPTER 316

An act to add and repeal Section 7202.5 of the Welfare and Institutions Code, relating to mental institutions.

[Approved by Governor September 18, 2006. Filed with
Secretary of State September 18, 2006.]

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

SECTION 1. Section 7202.5 is added to the Welfare and Institutions Code, to read:

7202.5. (a) The Atascadero State Hospital director shall develop a hospitalwide strategic plan that shall include, but not be limited to, a description of all of the following:

(1) Strategies to improve staff and patient safety.

(2) Strategies to better manage incidents of violent and aggressive behavior at the hospital, and to reduce the number of these incidents.

(3) Strategies to better utilize hospital staff resources.

(4) Strategies to increase local recruitment and improve hospital staff retention.

(5) Strategies to improve the health, safety, therapeutic, and workplace environment as they relate to the presence or use of tobacco products, including cigarettes, cigars, snuff, and chewing tobacco, by all staff, visitors, patients, and persons on hospital grounds.

(b) The hospital director shall develop this plan through the hospital's annual strategic planning process. The hospital director shall invite participation in that process from stakeholders within and outside of the hospital organization, and shall include one representative each from, and nominated by:

(1) Protection and Advocacy, Inc.

(2) The California Office of Patient Rights.

(3) The California Medical Association.

(4) The California Psychological Association.

(5) The California Psychiatric Association.

(6) State Bargaining Unit 7.

(7) State Bargaining Unit 16.

(8) State Bargaining Unit 17.

(9) State Bargaining Unit 18.

(10) State Bargaining Unit 19.

(11) State Bargaining Unit 20.

(c) The strategies or objectives established through the hospital's annual strategic planning process must be consistent and coincide with the enhancement plan requirements established and agreed to with the United States Department of Justice.

(d) The hospital director shall provide the completed hospitalwide strategic plan to the Atascadero State Hospital Advisory Board on or before June 30, 2007, and on or before June 30 of 2008 and 2009.

(e) Stakeholders who are invited to participate in the annual strategic planning conference shall do so at their own expense. Stakeholders that are unable to attend the conference may submit written input or comments to the hospital director.

(f) Strategic planning participants shall collaborate with, and provide consultation to, the hospital director in the development of strategies described in paragraphs (1) to (5), inclusive, of subdivision (a).

(g) The hospital director shall provide all strategic planning conference participants with all of the following:

(1) A written record of the conference within 30 days of the date of the conference.

(2) A copy of the strategic plan within 90 days of the date of the conference.

(3) An evaluation of the progress towards achievement of the strategic plan goals within 180 days of the date of the conference. The progress evaluation shall be provided to the conference participants no later than 30 days prior to the date of the next annual conference.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

CHAPTER 317

An act to amend Section 69 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 69 of the Revenue and Taxation Code is amended to read:

69. (a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within five years after the disaster, or five years in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the

substantially damaged or destroyed property shall be reassessed at its full cash value; however, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The assessor shall use the following procedure in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property substantially damaged or destroyed, then that lower value shall become the replacement property's base year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

(i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.

(ii) A replacement property or portion thereof that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) (1) This section applies to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(2) The amendments made by Chapter 1053 of the Statutes of 1993 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(3) The amendments made by the act adding this paragraph apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after July 1, 2003, and to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to replacement property. The acquisition of an ownership

interest in a legal entity which, directly or indirectly, owns real property is not an acquisition of comparable property.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 318

An act to amend Section 379 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 379 of the Streets and Highways Code is amended to read:

379. (a) Route 79 is from:

(1) Route 8 near Descanso to Route 78 near Julian.

(2) Route 78 near Santa Ysabel to the Temecula city limits east of Butterfield Stage Road.

(3) Temecula city limits south of Murrieta Hot Springs Road to Route 74 near Hemet.

(4) Route 74 near Hemet to Route 10 near Beaumont.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Temecula the portion of Route 79 located within Temecula's city limits, upon terms and conditions the commission finds to be in the best interest of the state.

(2) Any relinquishment agreement shall require that the City of Temecula administer the operation and maintenance of the highways in a manner consistent with professional traffic engineering standards.

(3) Any relinquishment agreement shall require the City of Temecula to ensure that appropriate traffic studies or analysis will be performed to substantiate any decisions affecting the highways.

(4) Any relinquishment agreement shall also require the City of Temecula to provide for public notice and the consideration of public input on the proximate effects of any proposed decision on traffic flow, residences, or businesses, other than a decision on routine maintenance.

(5) Notwithstanding any of its other terms, any relinquishment agreement shall require the City of Temecula to indemnify and hold the department harmless from any liability for any claims made or damages suffered by any person, including a public entity, as a result of any

decision made or damages suffered by any person, including a public entity, as a result of any decision made or action taken by the City of Temecula, its officers, employees, contractors, or agent, with respect to the design, maintenance, construction, or operation of that portion of Route 79 that is to be relinquished to the city.

(6) Any relinquishment shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(7) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 79 relinquished shall cease to be a state highway.

(B) The portion of Route 79 relinquished may not be considered for future adoption under Section 81.

(8) The City of Temecula shall ensure the continuity of traffic flow on the relinquished portion of Route 79, including any traffic signal progression.

(9) For relinquished portions of Route 79, the City of Temecula shall maintain signs directing motorists to the continuation of Route 79.

(c) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of San Jacinto any portion of Route 79 that is located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state, if the department and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, the relinquished portion of Route 79 shall cease to be a state highway.

(4) The portion of Route 79 relinquished under this subdivision shall be ineligible for future adoption under Section 81.

(5) For the portion of Route 79 that is relinquished under this subdivision, the City of San Jacinto shall maintain within its jurisdiction signs directing motorists to the continuation of Route 79.

CHAPTER 319

An act to amend Section 1209.1 of, and to add Sections 1209.5 and 1269.3 to, the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor September 18, 2006. Filed with
Secretary of State September 18, 2006.]

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

SECTION 1. Section 1209.1 of the Business and Professions Code is amended to read:

1209.1. (a) As used in this chapter, "histocompatibility laboratory director" means a physician and surgeon licensed to practice medicine pursuant to Chapter 5 (commencing with Section 2000) who is qualified pursuant to Section 1209, a bioanalyst licensed pursuant to Section 1260 who is qualified pursuant to Sections 1203 and 1209, or a person who has earned a doctoral degree in a biological science, who has completed, subsequent to graduation, four years of experience in immunology, two of which have been in histocompatibility testing.

(b) On and after January 1, 2007, in order to be eligible for licensure as a histocompatibility laboratory director, an applicant who is not a duly licensed physician and surgeon or a duly licensed bioanalyst shall provide evidence of satisfactory performance on a written examination in histocompatibility administered by the American Board of Histocompatibility and Immunogenetics, and have demonstrated satisfactory performance on an oral examination administered by the department regarding this chapter and Part 493 (commencing with Section 493.1) of Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations.

(c) A person licensed under Section 1260.1 as a histocompatibility laboratory director and qualified under CLIA may perform clinical laboratory tests or examinations classified as of high complexity under CLIA and the duties and responsibilities of a laboratory director, technical consultant, clinical consultant, technical supervisor, and general supervisor, as specified under CLIA, in the specialty of histocompatibility, immunology, or other specialty or subspecialty specified by regulation adopted by the department. A person licensed as a "histocompatibility laboratory director" may perform any clinical laboratory test or examination classified as waived or of moderate complexity under CLIA.

SEC. 2. Section 1209.5 is added to the Business and Professions Code, to read:

1209.5. (a) "Autoverification" means the use of a computer algorithm in conjunction with automated clinical laboratory instrumentation to review and verify the results of a clinical laboratory test or examination for accuracy and reliability.

(b) The laboratory director or authorized designee shall establish, validate, and document explicit criteria by which the clinical laboratory test or examination results are autoverified.

(c) The laboratory director or authorized designee shall annually revalidate the explicit criteria by which the clinical laboratory test or examination results are autoverified. The laboratory director shall approve and annually reapprove the computer algorithm.

(d) An authorized designee shall be appointed by the laboratory director for the purposes of this section. The authorized designee shall be licensed to engage in clinical laboratory practice pursuant to this chapter and shall be qualified as a clinical consultant, technical supervisor, general supervisor, or technical consultant pursuant to regulations adopted by the department.

(e) A person licensed to perform the applicable type and complexity of testing pursuant to Section 1206.5 shall be physically present onsite in the clinical laboratory and shall have documented competency pursuant to Section 1209 in all tests being autoverified, and shall be responsible for the accuracy and reliability of the results of the clinical laboratory test or examination when the results are autoverified and reported.

SEC. 3. Section 1269.3 is added to the Business and Professions Code, to read:

1269.3. (a) Notwithstanding Sections 1206.5 and 1269, within the specialty of pathology, a person certified as a pathologists' assistant by the American Association of Pathologists' Assistants, the Board of Registry of the American Society for Clinical Pathology, or another national accrediting agency approved by the department, who demonstrates competency to perform all job duties and responsibilities before an assignment to those duties and responsibilities, at the completion of six months of performing those duties and responsibilities, and annually thereafter, may perform the following activities under the supervision and control of a pathologist:

(1) Prepare human surgical specimens for gross description and dissection, including, but not limited to, description of gross features and selection of tissues for histological examination.

(2) Prepare and perform human postmortem examinations, including, but not limited to, selection of tissues and fluids for further examination.

(3) Gather other information necessary for an autopsy report.

(4) Prepare a body for release.

(b) Notwithstanding Section 1206.5 or subdivisions (b), (c), and (d) of Section 1269, the following persons may prepare human surgical specimens for gross description and dissection under the direct supervision of a qualified pathologist, including, description of gross features and selection of tissues for histological examination, if they

meet the requirements specified in subdivision (a) of Section 1269 and the minimum education and training requirements for high complexity testing personnel under the CLIA:

(1) A pathologists' assistant who does not meet the certification requirements of subdivision (a).

(2) A histologic technician.

(3) A histotechnologist.

(c) For the purposes of subdivision (b), direct supervision means that a qualified pathologist shall be physically present onsite in the vicinity of the clinical laboratory where the specialty of pathology is performed and shall be available for consultation and direction during the time the personnel specified in subdivision (b) are engaged in the processing of specimens that involve dissection. For tissue processing that does not involve dissection, a qualified pathologist may be available by telephone or other electronic means.

(d) A histologic technician or histotechnologist who meets the requirements specified in subdivision (a) of Section 1269, may accession specimens, perform maintenance of equipment, stain, cover slip, label slides, and process tissues by embedding in paraffin or performing microtomy.

(e) On and after January 1, 2011, the department may adopt regulations establishing additional qualification requirements to perform the duties described in this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 320

An act to amend Section 6159 of the Government Code, relating to payments to public agencies.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 6159 of the Government Code is amended to read:

6159. (a) As used in this section:

(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person, or his or her agent, who issues a credit card and purchases credit card drafts.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Debit card" means a card or other means of access to a debit cardholder's account that may be used to initiate electronic funds transfers from that account.

(5) "Draft purchaser" means any person who purchases credit card drafts.

(6) "Electronic funds transfer" means any method by which a person permits electronic access to, and transfer of, money held in an account by that person.

(b) Subject to subdivisions (c) and (d), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card, debit card, or electronic funds transfer for any of the following:

(1) The payment for the deposit of bail for any offense not declared to be a felony or for any court-ordered fee, fine, forfeiture, penalty, or assessment. Use of a card or electronic funds transfer pursuant to this paragraph may include a requirement that the defendant be charged any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle that has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder or accountholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(7) The payment of any moneys payable to the sheriff pursuant to a levy under a writ of attachment or writ of execution. If the use of a card

or electronic funds transfer pursuant to this paragraph includes any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction, that fee shall be paid by the person who pays the money to the sheriff pursuant to the levy.

(c) A court desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the Judicial Council. A city desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency.

(d) After approval is obtained, a contract may be executed with one or more credit card issuers, debit card issuers, electronic funds transfer processors, or draft purchasers. The contract shall provide for:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer, funds processor, or draft purchaser regarding the presentment, acceptability, and payment of credit and debit card drafts and electronic funds transfer requests.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer, funds processor, or draft purchaser of a reasonable fee or discount.

(4) Any other matters appropriately included in contracts with respect to the purchase of credit and debit card drafts and processing of electronic funds transfer requests as may be agreed upon by the parties to the contract.

(e) The honoring of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit or debit card is honored or the electronic funds transfer is processed, provided the credit or debit card draft is paid following its due presentment to a card issuer or draft purchaser or the electronic funds transfer is completed with transfer to the agency requesting the transfer.

(f) If any credit or debit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit or debit card shall be void. If any electronic funds transfer request is not completed with transfer to the agency requesting the transfer or is charged back to the agency for any reason, any record

of payment made by the agency processing the electronic funds transfer shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder or accountholder shall continue as an outstanding obligation as if no payment had been attempted.

(g) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, city and county, or any other public agency may impose a fee for the use of a credit or debit card or electronic funds transfer, not to exceed the costs incurred by the agency in providing for payment by credit or debit card or electronic funds transfer. These costs may include, but shall not be limited to, the payment of fees or discounts as specified in paragraph (3) of subdivision (d). Any fee imposed by a court pursuant to this subdivision shall be approved by the Judicial Council. Any fee imposed by any other public agency pursuant to this subdivision for the use of a credit or debit card or electronic funds transfer shall be approved by the governing body responsible for the fiscal decisions of the public agency.

(h) Fees or discounts provided for under paragraph (3) of subdivision (d) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer, funds processor, or draft purchaser to the extent not recovered from the cardholder or accountholder pursuant to subdivision (g).

(i) The Judicial Council may enter into a master agreement with one or more credit or debit card issuers, funds processors, or draft purchasers for the acceptance and payment of credit or debit card drafts and electronic funds transfer requests received by the courts. Any court may join in any of these master agreements or may enter into a separate agreement with a credit or debit card issuer, funds processor, or draft purchaser.

CHAPTER 321

An act to amend Sections 922.2, 922.5, 922.6, and 1781.10 of, and to add Section 1781.14, to the Insurance Code, relating to reinsurance.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 922.2 of the Insurance Code is amended to read:

922.2. (a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability in accordance with Sections 922.4 and 922.5 only if the reinsurance contract contains provisions that provide, in substance, as follows:

(1) The reinsurer shall indemnify the ceding insurer for the risk it has assumed according to the terms and conditions contained in the reinsurance contract.

(2) In the event of insolvency and the appointment of a conservator, liquidator, or statutory successor of the ceding company, the reinsurance shall be payable to the conservator, liquidator, or statutory successor on the basis of claims allowed against the insolvent company by any court of competent jurisdiction or by any conservator, liquidator, or statutory successor of the company having authority to allow such claims, without diminution because of that insolvency, or because the conservator, liquidator, or statutory successor has failed to pay all or a portion of any claims. Payments by the reinsurer as set forth in this subdivision shall be made directly to the ceding insurer or to its conservator, liquidator, or statutory successor, except where the contract of insurance or reinsurance specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer.

The reinsurance contract may provide that the conservator, liquidator, or statutory successor of a ceding insurer shall give written notice of the pendency of a claim against the ceding insurer indicating the policy or bond reinsured, within a reasonable time after such claim is filed and the reinsurer may interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which it may deem available to the ceding insurer or its conservator, liquidator, or statutory successor. The expense thus incurred by the reinsurer shall be payable subject to court approval out of the estate of the insolvent ceding insurer as part of the expense of conservation or liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer in conservation or liquidation, solely as a result of the defense undertaken by the reinsurer.

(b) Payment pursuant to a reinsurance contract shall be made within a reasonable time with reasonable provision for verification in accordance with the terms of the reinsurance agreement. However, in no event shall the payments be beyond the period required by the National Association of Insurance Commissioners (NAIC) Accounting Practices and Procedures Manual.

(c) The original insured or policyholder shall not have any rights against the reinsurer which are not specifically set forth in the contract of reinsurance, or in a specific agreement between the reinsurer and the original insured or policyholder.

SEC. 2. Section 922.5 of the Insurance Code is amended to read:

922.5. (a) An asset or a deduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 922.4 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer to the extent of either of the following:

(1) The asset or deduction is not greater than the amount of funds held by the ceding insurer under a reinsurance contract with that assuming insurer as security for the payment of obligations thereunder and such funds are held in the United States under the exclusive control of the ceding insurer.

(2) The asset or deduction is not greater than the amount of funds held in a trust, satisfactory to the commissioner, on behalf of the ceding insurer under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder and is held in a qualified United States financial institution, as defined in subdivision (b) of Section 922.7, subject to withdrawal solely by the ceding insurer.

The security under this subdivision may be in the form of cash or securities authorized as general investments under Article 3 (commencing with Section 1170) of Chapter 2, or securities listed by the Securities Valuation Office of the NAIC, qualifying as admitted assets under this code and with liquidity meeting the requirements of Section 706.5.

(b) An asset or a deduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 922.4 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer to the extent that security is provided in the form of letters of credit, satisfactory to the commissioner, which shall be:

(1) Clean, irrevocable, unconditional letters of credit, issued or confirmed by qualified United States financial institutions, as defined in subdivision (a) of Section 922.7, effective no later than December 31st in respect of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement.

(2) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation and shall, notwithstanding the issuing or confirming institutions' subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

SEC. 3. Section 922.6 of the Insurance Code is amended to read:

922.6. (a) Unless credit for reinsurance or deduction from liability is disallowed pursuant to Section 922.3 or 923, credit for reinsurance or

deduction from liability shall be allowed a foreign ceding insurer to the extent credit has been allowed by the ceding insurer's state of domicile if either:

(1) The state of domicile is accredited by the NAIC.

(2) Credit or deduction from liability would be allowed under this statute if the foreign ceding insurer were domiciled in this state.

(b) Notwithstanding subdivision (a), credit for reinsurance or deduction from liability may be disallowed upon a finding by the commissioner that either the financial condition of the reinsurer, or the collateral or other security provided by the reinsurer, does not, in substance, satisfy the credit for reinsurance requirements applicable to ceding insurers domiciled in this state.

SEC. 4. Section 1781.10 of the Insurance Code is amended to read:

1781.10. (a) A reinsurance intermediary shall be subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of each reinsurance intermediary in a form usable to the commissioner.

(b) A reinsurance intermediary-manager may be examined as if it were the reinsurer.

(c) All documents and information disclosed in connection with the examination of a reinsurance intermediary may be used by the commissioner and shall be given confidential treatment by the commissioner to the same extent as provided in Section 735.5 for documents and information disclosed in connection with the examination of an insurer.

(d) An examination shall be at the expense of the reinsurance intermediary. The commissioner may revoke the license of the reinsurance intermediary for a refusal to promptly pay the examination expense when due.

SEC. 5. Section 1781.14 is added to the Insurance Code, to read:

1781.14. (a) A reinsurance intermediary shall comply with any order of a court of competent jurisdiction or a duly constituted arbitration panel requiring the production of nonprivileged documents by the reinsurance intermediary, or the testimony of an employee or other individual otherwise under control of the reinsurance intermediary with respect to any reinsurance transaction for which it acted as a reinsurance intermediary.

(b) Compliance with subdivision (a) shall be subject to the right of the reinsurance intermediary and the parties to the transaction to object to the court or arbitration panel concerning the nature or scope of the documents or testimony or the time within which it must comply with

the order. Failure to comply with the order shall be deemed to be a material noncompliance with this chapter.

CHAPTER 322

An act to add Sections 175 and 4000.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 175 is added to the Vehicle Code, to read:

175. An "autoette" is a motor vehicle, located on a natural island with an area in excess of 20,000 acres and that is within a county having a population in excess of 4,000,000, that meets all of the following requirements:

(a) Has three or more wheels in contact with the ground.

(b) Has an unladed weight of no greater than 1,800 pounds.

(c) Has an overall length of no more than 120 inches, including the front and rear bumpers.

(d) Has a width of no more than 55 inches, as measured from its widest part.

SEC. 2. Section 4000.5 is added to the Vehicle Code, to read:

4000.5. (a) The department shall register an autoette, as defined in Section 175, as a motor vehicle.

(b) The owner of an autoette shall remove the license plates from the vehicle and return them to the department when the autoette is removed from a natural island, as described in Section 175.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 323

An act to amend Section 7271 of the Food and Agricultural Code, relating to noxious and invasive weeds.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

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

(a) The spread of certain harmful, nonnative species of plants causes enormous damage to the environment and economy of California.

(b) The destructive impact of invasive and often poisonous noxious weeds is profound, affecting California's cropland, rangeland, forests, parks, and wildlands.

(c) Enormous sums of private, state, and federal resources are lost through decreased land productivity, degradation of wildlife habitat, and outright destruction of crops, livestock, wetlands, waterways, watersheds, and recreational areas caused by noxious and invasive weeds.

(d) The estimated lost crop and forage productivity caused by invasive and noxious weeds is $33 billion nationwide, a large proportion of which is attributable to California.

(e) Noxious and invasive weeds have destroyed large portions of riparian habitat along creeks, streams, rivers, lakes, reservoirs, and other bodies of freshwater in California, damaging the integrity of riparian system by altering erosion, sedimentation, flooding, and fire.

(f) Proper noxious and invasive weed management in riparian habitats is critical to sustaining California's freshwater supply.

(g) The invasive weed Arundo donax (giant reed) has established large colonies across the state, most notably southern California, where one in 10,000 acre area of the weed has been estimated to have consumed more than 30,000 acre-feet of water each year, or enough water to meet the yearly freshwater needs of 150,000 persons. Over one million dollars ($1,000,000) is spent annually on controlling Arundo in southern California.

(h) The invasive weed yellow star thistle has infested more than 20,000,000 acres, roughly 22 percent of the state, and is quickly expanding in the Sierra and into the Coastal Range, making it the most common invasive plant in California, choking out native plants and killing horses who eat its poisonous early season growth. Yellow star thistle consumes extra groundwater estimated to cost sixteen million

dollars ($16,000,000) to seventy-five million dollars ($75,000,000) each year in the Sacramento River watershed alone.

(i) Tamarisk (saltcedar) trees, found along waterways throughout the arid west, including southern California, are estimated to cost between $133 billion and $292 billion nationally each year in lost water, flood control, hydropower, wildlife habitat, and recreation.

(j) California has a noxious weed management program for the purpose of managing and eradicating noxious weeds though specified local weed management areas. These programs to prevent, control, manage, and eradicate nonnative and noxious weeds have emphasized information sharing, education, and public awareness and participation as critical to the success of prevention, control, and eradication efforts.

(k) Local weed management groups have benefited greatly from the commitment of the state to fund weed eradication, and these weed management groups have been successful in identifying and eradicating invasive and noxious weed species in their regions.

(*l*) The California Noxious and Invasive Weed Action Plan, September 2005, calls for expanding funding for local weed management groups.

SEC. 2. Section 7271 of the Food and Agricultural Code is amended to read:

7271. (a) The Legislature designates the Department of Food and Agriculture as the lead department in noxious weed management and the department is responsible for the implementation of this article in cooperation with the Secretary for Resources.

(b) There is hereby created in the Department of Food and Agriculture Fund the Noxious Weed Management Account.

(c) Funds appropriated for expenditure by the secretary for purposes of this article may be spent without regard to fiscal year and shall be allocated as follows:

(1) Eighty percent of moneys in the account shall be made available to eligible weed management areas or county agricultural commissioners for the control and abatement of noxious weeds according to an approved integrated weed management plan.

(2) Ten percent shall be made available toward research on the biology, ecology, or management of noxious and invasive weeds.

These research moneys shall be made available to qualified researchers through a grant program administered by the department. Proposals shall be evaluated in consultation with the Range Management Advisory Committee, with emphasis placed on funding of needs-based, applied and practical research.

(3) Ten percent shall be made available to the department, and shall only be used for the following purposes:

(A) Carrying out the provisions of this article.

(B) Developing of noxious weed control strategies.

(C) Seeking new, effective biological control agents for the long-term control of noxious weeds.

(D) Conducting private and public workshops as needed to discuss and plan weed management strategies with all interested and affected local, state, and federal agencies, private landowners, educational institutions, interest groups, and county agricultural commissioners.

(E) Appointing a noxious weed coordinator and weed mapping specialist to assist in weed inventory, mapping, and control strategies.

CHAPTER 324

An act to add Article 6 (commencing with Section 12260) to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, relating to the Secretary of State.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Article 6 (commencing with Section 12260) is added to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 6. Reinstatement of Business Entities

12260. For the purposes of this article, "termination document" means the certificate or other document required by the Corporations Code that is the last certificate or document filed with the Secretary of State to effect the final dissolution, surrender, or cancellation of the business entity.

12261. The Secretary of State shall reinstate to active status on its records, a business entity for which a court finds any of the following:

(a) The factual representations by a shareholder, member, partner, or other person that are required for the termination document are materially false.

(b) The submission of the termination document to the Secretary of State for filing is fraudulent.

(c) Other grounds exist warranting reinstatement of the business entity.

12262. If the Secretary of State determines that the name of a business entity that has been ordered by a court to be reinstated creates a conflict

under subdivision (b) of Section 201, subdivision (b) of Section 5122, subdivision (c) of Section 7122, subdivision (b) of Section 9122, subdivision (b) of Section 12302, subdivision (c) of Section 15612, or subdivision (c) of Section 17052 of the Corporations Code or any related statute, the reinstatement shall be subject to the business entity filing an amendment to change its name to eliminate the conflict.

12263. Nothing in this article authorizes a court to order that any records of the Secretary of State be expunged. The Secretary of State shall file a certified copy of the order of the court reinstating the business entity with the records of the business entity, and the reinstatement shall be effective on the date the Secretary of State files the order. The Secretary of State shall notify the Franchise Tax Board of the reinstatement of the business entity.

CHAPTER 325

An act to amend Sections 17171, 17173, 17180, 17183, 17183.5, 17184, 17185, 17193, 17193.5, 17194, 17195, 17199.1, and 17199.4 of the Education Code, relating to charter schools.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 17171 of the Education Code is amended to read:

17171. The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings that are educationally inadequate or that do not meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts, charter schools, and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

SEC. 2. Section 17173 of the Education Code is amended to read:

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Agent" means a county or city board of education or superintendent of schools acting with the board's consent, on behalf of one or more school districts for any purpose of this chapter, the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with the Board of Governors' consent, on behalf of one or more community college districts for any purpose of this chapter, and the school district, county office of education, or other chartering entity acting with the consent of, and on behalf of, one or more charter schools for any purpose of this chapter.

(c) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) "Bonds" or "revenue bonds" means bonds, notes, lease obligations, certificates of participation, commercial paper, and any other evidences of indebtedness.

(e) "Cost," as applied to all or part of a project financed or refinanced pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing or refinancing charges, including, but not limited to, credit enhancement costs, and prepayment penalties.

(6) Interest prior to, during, and for a period following, the completion of any construction or improvement determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing or refinancing under this chapter.

(f) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools, including charter schools, or community colleges, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.

(3) Student centers.

(4) Administrative offices.

(5) Sports facilities.

(6) Maintenance, storage, or utility facilities.

(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(g) "Participating party" means a school district, charter school, county office of education, or community college district that undertakes, itself or through an agent, the financing or refinancing of a project or of working capital pursuant to this chapter. "Participating party" shall also be deemed to refer to the agent to the extent the agent is acting on behalf of the school district, charter school, county office of education, or community college district for any purpose of this chapter.

(h) "Project" means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. "Project" may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating parties.

(i) "Working capital" means funds to be used by, or on behalf of, a participating party to pay maintenance or operating expenses, or any other costs that would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

(1) Reserves for maintenance or operating expenses.

(2) Interest for a period not to exceed two years on any loan for working capital made pursuant to this chapter.

(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

(4) Payments made by a participating party for the rent or lease of an educational facility.

(j) "Certificate of participation" means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating party or parties.

(k) "Charter school" means a school established pursuant to Part 26.8 (commencing with Section 47600).

SEC. 3. Section 17180 of the Education Code is amended to read:

17180. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed or refinanced under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating party as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating party as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state that the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating party as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating party, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, or purchase all or part of any rights to or possibilities regarding the state share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Section 17070.10). The purchase of all or part of any rights to, or possibilities regarding, the state contribution for funding for school facilities approved by the State Allocation Board shall be limited to amounts approved and funded or amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued. Loans or purchases completed pursuant to this section may be used to finance or refinance a project or provide working capital. A loan to finance or refinance a project shall not exceed the total cost of the project, as determined by the participating party and approved by the authority.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed or refinanced pursuant to this chapter to a participating party, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating party of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the participating party's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating parties its administrative costs and expenses incurred pursuant to this chapter.

(*l*) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating party.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

(o) Adopt guidelines for grants, bonds, and other evidences of indebtedness.

SEC. 4. Section 17183 of the Education Code is amended to read:

17183. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating party.

(2) A series of projects or financings of working capital for a single participating party.

(3) A single project or financing of working capital for several participating parties.

(4) Several projects or financing of working capital for several participating parties.

(5) A joint venture school facilities construction project undertaken pursuant to Article 5 (commencing with Section 17060) of Chapter 12.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating party or parties, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds that shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing that statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

(j) The financing or refinancing of projects or working capital may be provided pursuant to this chapter by means other than revenue bonds, at the discretion of the authority, including financing or refinancing through certificates of participation, or other interests, in bonds, loans, leases, installment sales, or other agreements of the participating party or parties. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable with regard to issuance of the certificates of participation or other means of financing or refinancing.

(k) The authority may by resolution issue its revenue bonds in the form of commercial paper.

SEC. 5. Section 17183.5 of the Education Code is amended to read:

17183.5. In enacting this chapter, it is the intent of the Legislature to provide financing only for projects demonstrated by the participating party to be financially feasible. In demonstrating financial feasibility, the participating party may take into account all of its funds, and may base future projections upon historical experience or reasonable expectations, or a combination thereof. Nothing in this section shall be

construed to imply that any project is required to produce revenue in order to be financed under this chapter.

SEC. 6. Section 17184 of the Education Code is amended to read:

17184. (a) In the discretion of the authority, any revenue bonds of the authority issued under this chapter may be secured by a trust agreement, or by indenture by and between the authority and a corporate trustee or trustees, including the Treasurer or any trust company or bank having the powers of a trust company within or outside the state.

(b) Any trust agreement, indenture, or any resolution providing for the issuance of bonds of the authority, may pledge or assign the proceeds of the bonds, and the revenues to be received by, a participating party or parties.

(c) Any trust agreement, indenture, or resolution providing for the issuance of revenue bonds of the authority may include any provisions for the protection of, and the enforcement of the rights and remedies of, bondholders as may be reasonable and proper and not in violation of any law, including provisions included in any resolution or resolutions of the authority provided under subdivision (a) or (b).

(d) Any trust agreement or indenture may prescribe the rights and remedies of the bondholders, and of the trustee or trustees, and may restrict the individual right of action of the bondholders.

(e) Any trust agreement, indenture, or resolution may include any other provisions deemed by the authority to be reasonable and proper for the security of the bondholders.

(f) Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of his or her capacity as trustee pursuant to this chapter.

SEC. 7. Section 17185 of the Education Code is amended to read:

17185. (a) Notwithstanding any other provision of law, revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

SEC. 8. Section 17193 of the Education Code is amended to read:

17193. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating party, and each agreement, note, or other instrument evidencing the obligations of a participating party to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating party shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves that may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating party for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds that may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating party may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

SEC. 9. Section 17193.5 of the Education Code is amended to read:

17193.5. (a) For purposes of this section, "public credit provider" means any financial institution or combination of financial institutions, that consists either solely, or has as a member or participant, a public retirement system. Notwithstanding any other provision of law, a public credit provider may, in connection with providing credit enhancement for bonds, notes, certificates of participation, or other evidences of indebtedness of a participating party, require the participating party to agree to the following conditions:

(1) If a participating party adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds, notes, certificates of participation, or other evidence of indebtedness and identify the public credit provider that provided credit enhancement. The notice shall be provided not later than the date of issuance of the bonds.

(2) If, for any reason a public credit provider is required to make principal or interest payments or both pursuant to a credit enhancement agreement, the public credit provider shall immediately notify the Controller of that fact and of the amount paid out by the public credit provider.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the public credit provider in the amount of the payments made by the public credit provider for the purpose of reimbursing the public credit provider for its expenditures made pursuant to the credit enhancement agreement. The Controller shall make that apportionment only from moneys designated for apportionments to a school district pursuant to Section 42238 or to a county office of education pursuant to Section 2558 or to the community college district pursuant to Section 84750, or in the case of a charter school, pursuant to Section 47633.

(b) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) or Section 8 of Article XVI of the California Constitution. For purposes of computing revenue limits or revenue levels pursuant to Section 42338 for any school district or pursuant to Section 2558 for any county office of education or pursuant to Section 84750 for any community college district, the revenue limit or revenue level for any fiscal year in which funds are apportioned for the district or for the county office of education pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraph (3) of subdivision (a). For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraph (3) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) of subdivision (a).

SEC. 10. Section 17194 of the Education Code is amended to read:

17194. The authority may authorize any participating party to act as its agent in the performance of acts specifically approved by the authority, and all acts required under Article 3 (commencing with Section 17280)

of Chapter 3 of Part 10.5. The authorizations may include, but are not necessarily limited to, all of the following:

(a) The selection of school or college sites.

(b) The securing of appraisals.

(c) Contracts for architectural services.

(d) The advertisement for construction bids and the entry into contracts for construction.

(e) The purchase of furniture and equipment.

SEC. 11. Section 17195 of the Education Code is amended to read:

17195. Whenever the principal and interest on bonds issued by the authority to finance the cost of a project or working capital, or to refinance the outstanding indebtedness of one or more participating parties, including any refunding bonds issued to refund and refinance those bonds, have been fully paid or retired, or whenever adequate provision has been made to fully pay and retire the bonds, and all other conditions of the resolution, lease, trust indenture and any security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of security interest has been released in accordance with those provisions, the authority shall promptly provide for and execute any releases, release deeds, reassignments, deeds, and conveyances as are necessary and required to convey or release its rights, title, and interest in the project financed, to the participating parties.

SEC. 12. Section 17199.1 of the Education Code is amended to read:

17199.1. (a) Any participating party, exclusively for the purpose of securing financing or refinancing of projects or working capital pursuant to this chapter through the issuance, by the authority, of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, may: (1) sell to the authority all or part of any rights to or possibilities regarding the state's share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Sec. 17070.10) including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued; (2) issue bonds to the authority; or (3) borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, in each case at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other transfer, assignment, payment, security, default, remedy, and other terms or provisions as may be specified in the sale of rights agreement or the bonds of the participating party or a loan, loan purchase, installment

sale, lease, or other agreement between the authority and the participating party, subject to the following conditions:

(A) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other funds received by the participating party, which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the participating party.

(B) In computing the maximum amount that may be borrowed in any fiscal year pursuant to subparagraph (A), the participating party may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the participating party which has a term scheduled to terminate during that fiscal year.

(C) A participating party that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan, including interest, within 15 months of the loan date.

(D) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cashflow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating party must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating party will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating party may take into account all funds received by the participating party and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Notwithstanding Sections 700, 703, and 1045 of the Civil Code, the rights and possibilities that a participating party may have or obtain in the future to an approved state contribution to funding for school facilities pursuant to Chapter 12.5 (commencing with Sec. 17070.10) that remains unfunded pending the issuance of state bonds already authorized by the electors shall constitute property for all purposes and may be transferred as provided in subdivision (a). In the case of any transfer or assignment of rights or possibilities relating to funds for which bonds have been approved by the voters but are not yet available, the transfer or assignment shall be approved by resolution of the State Allocation Board prior to becoming effective.

(c) Any participating party may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or

appropriate in connection with the issuance of bonds, the borrowing of money or the lease or purchase of educational facilities, whichever is applicable. Any participating party or parties may also do all things and execute all documents as may be necessary or desirable in connection with the issuance of certificates of participation, or other interests, in any bond, loan, note, installment sale, lease, or other agreement of the participating party.

(d) A school district may by resolution authorize any county or city board of education or superintendent of schools, a community college district may by resolution authorize the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges, and a charter school may by resolution authorize its chartering entity or educational management organization, to act as its agent in the performance of any of the matters permitted by this section or any other provision of this chapter. Notwithstanding any other provision of law, the agent shall have the powers granted by the resolution for purposes of this chapter. The resolution shall be deemed to bind the school district, charter school, or community college district, as the case may be, to any contract, agreement, instrument, or other document executed by the agent on behalf of the school district, charter school, or community college district, and all duties, obligations, or responsibilities contained therein on the part of the school district, charter school, or community college district, to the same extent as if duly authorized, executed, and delivered by the school district, charter school, or community college district.

(e) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the sale or transfer of any rights to or possibilities regarding the state share of funding for school facilities approved by the State Allocation Board including amounts apportioned and funded and amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued, issuance of bonds to, borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the transfer of any rights to or possibilities regarding the state contribution for funding for school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10), including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued, or the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the

requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district, charter school, or community college district, or by a county or city board of education or superintendent of schools, or the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges, or the governing board of a charter school, chartering entity, or educational management organization.

SEC. 13. Section 17199.4 of the Education Code is amended to read:

17199.4. (a) Notwithstanding any other law, any participating party, in connection with securing financing or refinancing of projects, or working capital pursuant to this chapter, may elect to guarantee or provide for payment of the bonds in accordance with the following conditions:

(1) If a participating party adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds, and any other costs necessary or incidental to financing pursuant to this chapter, and identify a trustee appointed by the participating party or the authority for purposes of this section. The notice shall be provided not later than the date of issuance of the bonds or 60 days prior to the next payment, whichever date is later. The participating party shall update the notice at least annually if there is a change in the required payment for any reason, including, but not limited to, providing for new or increased costs necessary or incidental to the financing.

(2) If, for any reason, the participating party will not make a payment at the time the payment is required, the participating party shall notify the trustee of that fact and of the amount of the deficiency. If the trustee receives this notice from the participating party, or does not receive any payment by the date that payment becomes due, the trustee shall immediately communicate that information to the Controller.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee on the date shown in the schedule in the amount of the deficiency for the purpose of making the required payment. The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment to a school district pursuant to Section 42238 or to the county office of education pursuant to Section 2558, or in the case of a charter school, pursuant to Section 47633.

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating party may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee

and the date for the transfers. The Controller shall, subject to the limitation in paragraph (3), make apportionments to the trustee of those amounts on the specified date for the purpose of making those transfers. The authority may require a participating party to proceed under this subdivision.

(b) (1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) For purposes of computing revenue limits pursuant to Section 42238 for any school district or pursuant to Section 2558 for any county office of education, the revenue limit for any fiscal year in which funds are apportioned for the participating party pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a).

(3) For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) and (4) of subdivision (a), or to the funds apportioned to by the Controller to the trustee under any other provision of this section.

(c) (1) Participating parties that elect to participate under this section shall apply to the authority. The authority shall consider each of the following priorities in making funds available:

(A) First priority shall be given to school districts, charter schools, or county offices of education that apply for funding for instructional classroom space.

(B) Second priority shall be given to school districts, charter schools, or county offices of education that apply for funding of modernization of instructional classroom space.

(C) Third priority shall be given to all other eligible costs, as defined in Section 17173.

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for the purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17060) of Chapter 12, shall not be subject to the priorities set forth in paragraph (1).

(d) This section shall not be construed to make the State of California liable for any payments within the meaning of Section 1 of Article XVI

of the California Constitution or otherwise, except as expressly provided in this section.

(e) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.

CHAPTER 326

An act to amend Section 22844 of the Government Code, relating to public employees' health benefits.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

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

SECTION 1. Section 22844 of the Government Code is amended to read:

22844. (a) Employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare may not be enrolled in a basic health benefit plan. If the employee, annuitant, or family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a Medicare health benefit plan.

(b) Employees, annuitants, and family members enrolled in a prescription drug plan under Part D of Medicare may not be enrolled in a board-approved health benefit plan. This subdivision does not apply to an individual enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.

(c) This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or regulation.

CHAPTER 327

An act to amend Sections 14166.1, 14166.2, 14166.35, 14166.5, 14166.9, 14166.10, 14166.11, 14166.12, 14166.13, 14166.14, 14166.16, 14166.17, 14166.18, 14166.20, 14166.21, and 14166.23 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 18, 2006. Filed with
Secretary of State September 18, 2006.]

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

SECTION 1. Section 14166.1 of the Welfare and Institutions Code is amended to read:

14166.1. For purposes of this article, the following definitions shall apply:

(a) "Allowable costs" means those costs recognized as allowable under Medicare reasonable cost principles and additional costs recognized under the demonstration project, including those expenditures identified in Appendix D to the Special Terms and Conditions for the demonstration project. Allowable costs under this subdivision shall be determined in accordance with the Special Terms and Conditions for the demonstration project and demonstration project implementation documents approved by the federal Centers for Medicare and Medicaid Services.

(b) "Base year private DSH hospital" means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for the 2004–05 state fiscal year.

(c) "Demonstration project" means the Medi-Cal Hospital/Uninsured Care Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services.

(d) "Designated public hospital" means any one of the following 22 hospitals identified in Attachment C, "Government-operated Hospitals to be Reimbursed on a Certified Public Expenditure Basis," to the Special Terms and Conditions for the demonstration project issued by the federal Centers for Medicare and Medicaid Services:

(1) UC Davis Medical Center.

(2) UC Irvine Medical Center.

(3) UC San Diego Medical Center.

(4) UC San Francisco Medical Center.

(5) UC Los Angeles Medical Center, including Santa Monica/UCLA Medical Center.

(6) LA County Harbor/UCLA Medical Center.

(7) LA County Martin Luther King Jr. Charles R. Drew Medical Center.

(8) LA County Olive View UCLA Medical Center.

(9) LA County Rancho Los Amigos National Rehabilitation Center.

(10) LA County University of Southern California Medical Center.

(11) Alameda County Medical Center.
(12) Arrowhead Regional Medical Center.
(13) Contra Costa Regional Medical Center.
(14) Kern Medical Center.
(15) Natividad Medical Center.
(16) Riverside County Regional Medical Center.
(17) San Francisco General Hospital.
(18) San Joaquin General Hospital.
(19) San Mateo Medical Center.
(20) Santa Clara Valley Medical Center.
(21) Tuolumne General Hospital.
(22) Ventura County Medical Center.

(e) "Federal medical assistance percentage" means the federal medical assistance percentage applicable for federal financial participation purposes for medical services under the Medi-Cal state plan pursuant to Section 1396b(a) of Title 42 of the United States Code.

(f) "Nondesignated public hospital" means a public hospital defined in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(g) "Project year" means the applicable state fiscal year of the Medi-Cal Hospital/Uninsured Care Demonstration Project.

(h) "Project year private DSH hospital" means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98, for the particular project year.

(i) "Prior supplemental funds" means the Emergency Services and Supplemental Payment Fund, the Medi-Cal Medical Education Supplemental Payment Fund, the Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund, and the Small and Rural Hospital Supplemental Payments Fund, established under Sections 14085.6, 14085.7, 14085.8, and 14085.9, respectively.

(j) "Private hospital" means a nonpublic hospital, nonpublic converted hospital, or converted hospital, as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(k) "Safety net care pool" means the federal funds available under the Medi-Cal Hospital/Uninsured Care Demonstration Project to ensure continued government support for the provision of health care services to uninsured populations.

(*l*) "Uninsured" shall have the same meaning as that term has in the Special Terms and Conditions issued by the federal Centers for Medicare and Medicaid Services for the demonstration project.

SEC. 2. Section 14166.2 of the Welfare and Institutions Code is amended to read:

14166.2. (a) The demonstration project shall be implemented and administered pursuant to this article.

(b) The director may modify any process or methodology specified in this article to the extent necessary to comply with federal law or the terms of the demonstration project, but only if the modification results in the equitable distribution of funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.

(c) The director shall administer the demonstration project and related Medi-Cal payment programs in a manner that attempts to maximize available payment of federal financial participation, consistent with federal law, the Special Terms and Conditions for the demonstration project issued by the federal Centers for Medicare and Medicaid Services, and this article.

(d) As permitted by the federal Centers for Medicare and Medicaid Services, this article shall be effective with regard to services rendered throughout the term of the demonstration project, and retroactively, with regard to services rendered on or after July 1, 2005, but prior to the implementation of the demonstration project.

(e) In the administration of this article, the state shall continue to make payments to hospitals that meet the eligibility requirements for participation in the supplemental reimbursement program for hospital facility construction, renovation, or replacement pursuant to Section 14085.5 and shall continue to make inpatient hospital payments not covered by the contract. These payments shall not duplicate any other payments made under this article.

(f) The department shall continue to operate the selective provider contracting program in accordance with Article 2.6 (commencing with Section 14081) in a manner consistent with this article. A designated public hospital participating in the certified public expenditure process shall maintain a selective provider contracting program contract. These

contracts shall continue to be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In the event of a final judicial determination made by any state or federal court that is not appealed in any action by any party or a final determination by the administrator of the Centers for Medicare and Medicaid Services that federal financial participation is not available with respect to any payment made under any of the methodologies implemented pursuant to this article because the methodology is invalid, unlawful, or is contrary to any provision of federal law or regulation, the director may modify the process or methodology to comply with law, but only if the modification results in the equitable distribution of demonstration project funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.

(h) (1) The department may adopt regulations to implement this article. These regulations may initially be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this article, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. Any emergency regulations adopted pursuant to this section shall not remain in effect subsequent to 24 months after the effective date of this article.

(2) As an alternative, and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other provision of law, the department may implement and administer this article by means of provider bulletins, manuals, or other similar instructions, without taking regulatory action. The department shall notify the fiscal and appropriate policy committees of the Legislature of its intent to issue a provider bulletin, manual, or other similar instruction, at least five days prior to issuance. In addition, the department shall provide a copy of any provider bulletin, manual, or other similar instruction issued under this paragraph to the fiscal and appropriate policy committees of the Legislature. The department shall consult with interested parties and appropriate

stakeholders, regarding the implementation and ongoing administration of this article.

(i) To the extent necessary to implement this article, the department shall submit, by September 30, 2005, to the federal Centers for Medicare and Medicaid Services proposed amendments to the Medi-Cal state plan, including, but not limited to, proposals to modify inpatient hospital payments to designated public hospitals, modify the disproportionate share hospital payment program, and provide for supplemental Medi-Cal reimbursement for certain physician and nonphysician professional services. The department shall, subsequent to September 30, 2005, submit any additional proposed amendments to the Medi-Cal state plan that may be required by the federal Centers for Medicare and Medicaid Services, to the extent necessary to implement this article.

(j) Each designated public hospital shall implement a comprehensive process to offer individuals who receive services at the hospital the opportunity to apply for the Medi-Cal program, the Healthy Families Program, or any other public health coverage program for which the individual may be eligible, and shall refer the individual to those programs, as appropriate.

(k) In any judicial challenge of the provisions of this article, nothing shall create an obligation on the part of the state to fund any payment from state funds due to the absence or shortfall of federal funding.

(*l*) Any reference in this article to the "Medicare cost report" shall be deemed a reference to the Medi-Cal cost report to the extent that report is approved by the federal Centers for Medicare and Medicaid Services for any of the uses described in this article.

SEC. 3. Section 14166.35 of the Welfare and Institutions Code is amended to read:

14166.35. (a) For each project year, designated public hospitals shall be eligible to receive the following:

(1) Payments for Medi-Cal inpatient hospital services and supplemental payments for physician and nonphysician practitioner services, as specified in Section 14166.4.

(2) Disproportionate share hospital payment adjustments, as specified in Section 14166.6.

(3) Safety net care pool funding, as specified in Section 14166.7.

(4) Stabilization funding, as specified in Section 14166.75.

(5) Grants to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14166.23.

(b) Payments under this section shall be in addition to other payments that may be made in accordance with law.

SEC. 4. Section 14166.5 of the Welfare and Institutions Code is amended to read:

14166.5. (a) With respect to each project year, the director shall determine a baseline funding amount for each designated public hospital. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081).

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(5) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each designated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004–05 state fiscal year by the designated public hospital, or the governmental entity with which it is affiliated.

(c) With respect to each project year beginning after the 2005–06 project year, the department shall determine an adjusted baseline funding amount for each designated public hospital to reflect any increase or decrease in volume. The adjustment for designated public hospitals shall be calculated as follows:

(1) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (2), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services that would be recognized under the demonstration project to Medi-Cal beneficiaries and the uninsured during the 2004–05 state fiscal year.

(2) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (1), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services under the demonstration project to Medi-Cal beneficiaries and

the uninsured during the state fiscal year preceding the project year for which the volume adjustment is being calculated.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to that amount that results from the hospital's baseline funding amount determined under subdivision (a) as adjusted by subdivision (b), except for the reduction for the amount of intergovernmental transfers made pursuant to Section 14163, minus the amount of disproportionate share hospital payments in paragraph (4) of subdivision (a).

(4) The designated public hospital's adjusted baseline for the project year is the amount determined for the hospital in subdivision (a) as adjusted by subdivision (b), plus the amount in subparagraph (C) of paragraph (3).

(5) Notwithstanding paragraphs (3) and (4), when, as determined by the department, in consultation with the designated public hospital, there has been a material reduction in patient services at the designated public hospital during the project year, and the reduction has resulted in a diminution of access for Medi-Cal and uninsured patients and a related reduction in total costs at the designated public hospital of at least 20 percent, the department may utilize current or adjusted data that are reflective of the diminution of access, even if the data are not annual data, to determine the hospital's adjusted baseline amount.

(d) The aggregate designated public hospital baseline funding amount for each project year shall be the sum of all baseline funding amounts determined under subdivisions (a) and (b), as adjusted in subdivision (c), as appropriate, for all designated public hospitals.

(e) (1) The adjustments set forth in subdivision (c) of Section 14166.13 and in subdivision (c) shall not apply if either of the following conditions exist:

(A) The difference between the percentage adjustment in subparagraph (B) of paragraph (3) of subdivision (c) of this section, computed in the aggregate for designated public hospitals, and subparagraph (B) of paragraph (3) of subdivision (c) of Section 14166.13 is greater than 3 percentage points.

(B) The stabilization funding amount from the Health Care Support Fund, established pursuant to Section 14166.21, as determined in Section 14166.20 for any project year is less than one hundred fifty-three million dollars ($153,000,000).

(2) Notwithstanding paragraph (1), the department may apply the adjustments set forth in paragraph (5) of subdivision (c).

SEC. 5. Section 14166.9 of the Welfare and Institutions Code is amended to read:

14166.9. (a) The department, in consultation with the designated public hospitals, shall determine the mix of sources of federal funds for payments to the designated public hospitals in a manner that provides baseline funding to hospitals and maximizes federal Medicaid funding to the state during the term of the demonstration project. Federal funds shall be claimed according to the following priorities:

(1) The certified public expenditures of the designated public hospitals for inpatient hospital services and physician and nonphysician practitioner services, as identified in subdivision (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

(2) Federal disproportionate share hospital allotment, subject to the federal-hospital specific limit, in the following order:

(A) Those hospital expenditures that are eligible for federal financial participation only from the federal disproportionate share hospital allotment.

(B) Payments funded with intergovernmental transfers, consistent with the requirements of the demonstration project, up to the hospital's baseline funding amount or adjusted baseline funding amount, as appropriate, for the project year.

(C) Any other certified public expenditures for hospital services that are eligible for federal financial participation from the federal disproportionate share hospital allotment.

(3) Safety net care pool funds, using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital, or governmental entity with which the hospital is affiliated, that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are not identified as hospital services under the Special Terms and Conditions for the demonstration project.

(4) Health care expenditures of the state that represent alternate state funding mechanisms approved by the federal Centers for Medicare and Medicaid Services under the demonstration project as set forth in Section 14166.22.

(b) The department shall implement these priorities, to the extent possible, in a manner that minimizes the redistribution of federal funds that are based on the certified public expenditures of the designated public hospitals.

(c) The department may adjust the claiming priorities to the extent that these adjustments result in additional federal Medicaid funding

during the term of the demonstration project or facilitate the objectives of subdivision (b).

(d) There is hereby established in the State Treasury the "Demonstration Disproportionate Share Hospital Fund," consisting of all federal funds received by the department with respect to the certified public expenditures claimed pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a). Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department solely for the purposes specified in Section 14166.6.

(e) All federal safety net care pool funds claimed and received by the department based on health care expenditures incurred by the designated public hospitals, or the governmental entities with which they are affiliated, shall be deposited in the Health Care Support Fund, established pursuant to Section 14166.21.

SEC. 6. Section 14166.10 of the Welfare and Institutions Code is amended to read:

14166.10. (a) Payments to private hospitals under the demonstration project shall include, as applicable, all of the following:

(1) Payments under selective provider contracts with the department negotiated by the California Medical Assistance Commission in accordance with Article 2.6 (commencing with Section 14081).

(2) Disproportionate share hospital replacement payments under Section 14166.11.

(3) Supplemental payments under Section 14166.12.

(4) Payments to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14166.23.

(5) Payments of amounts described in Section 14166.14.

(b) Payments under subdivision (a) shall be in addition to other payments that may be made in accordance with law.

SEC. 7. Section 14166.11 of the Welfare and Institutions Code is amended to read:

14166.11. (a) The department shall pay to each project year private DSH hospital the amounts that would have been paid under the disproportionate share hospital program using the formulas and methodology in effect for the 2004–05 fiscal year as more specifically set forth in this section.

(b) For each project year, the department shall develop and issue a tentative and final disproportionate share list in accordance with Section 14105.98.

(c) For each project year, the department shall perform the computations set forth in paragraphs (1) to (4), inclusive, and (6) to (8), inclusive, of subdivision (am) and paragraphs (1) to (3), inclusive, of subdivision (an) of Section 14105.98, subject to the following:

(1) For purposes of these computations, the maximum state disproportionate share hospital allotment for California for each project year shall be the allotment effective during the federal fiscal year beginning during the project year.

(2) All references to October 1 shall be deemed to be references to July 1.

(3) Notwithstanding any other provision of law, the transfer amounts for the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund, as provided for pursuant to paragraph (2) of subdivision (d) of Section 14163 shall be deemed to be eighty-five million dollars ($85,000,000) for purposes of the computations under this subdivision.

(4) Notwithstanding any other provision of law, the payments made under this section shall be treated as payment adjustments made under Section 14105.98 for purposes of computing the OBRA 1993 payment limitation, as defined in paragraph (24) of subdivision (a) of Section 14105.98, the low-income utilization rate, and all related computations.

(5) Subdivision (m) of Section 14105.98 shall apply to payments made under this section.

(d) Interim payments shall be made for the first five months of each project year as follows:

(1) Interim payments shall be made to each private hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount per month for each of these hospitals shall equal one-twelfth of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section or under Section 14105.98. The interim payment amount may be adjusted to reflect any changes in the total payment amounts, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment for a project year shall be made to each hospital no later than 60 days after the issuance of the tentative disproportionate share hospital list for that project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments for a project year made under this subdivision to a hospital that is not on the final disproportionate share hospital list for that project year. These interim payments shall be considered an overpayment. The department shall

issue a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department's determination of an overpayment under this subdivision pursuant to the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that the only issues that may be raised in this appeal are whether the hospital, but for inadvertent error by the department, was on the final disproportionate share list for the project year and whether the department's computation of the overpayment amount is correct. If the hospital is reinstated on the final disproportionate share list pursuant to Section 14105.98, the department shall promptly refund any amount recovered under this paragraph.

(e) Tentative adjusted monthly payments shall be made for the months of December through March of each project year to each private hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An adjusted payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department, plus any applicable interim estimated stabilization funding pursuant to subdivision (b) of Section 14166.14.

(2) A tentative adjusted monthly payment amount shall be computed for each hospital equal to the adjusted payment amount for the hospital, minus the aggregate interim payments made to the hospital for the project year, divided by seven.

(3) The computation of tentative adjusted monthly payments described in this subdivision shall be made promptly after the department issues the final disproportionate share hospital list for the project year.

(4) The first tentative adjusted monthly payment for a project year shall be made to each hospital by January 15 or within 60 days after the issuance of the final disproportionate share hospital list for the project year, whichever is later, and shall include the tentative adjusted monthly payment amounts for all prior months in the project year for which those payments are due. Subsequent tentative adjusted monthly payments for a project year shall be made on the last checkwrite of each month made

by the Controller until tentative adjusted monthly payments for December through March of the project year have been made.

(f) Three data corrected payments shall be made on the last checkwrite of the month made by the Controller for the months of April through June of each project year to each private hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An annual data corrected payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department, plus any interim estimated stabilization funding. The annual data corrected payment amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the adjusted payment amounts computed under paragraph (1) of subdivision (e).

(2) A monthly data corrected payment amount shall be computed for each hospital equal to the annual data corrected payment amount for the hospital, minus both the aggregate interim payments made to the hospital for the project year and the aggregate tentative adjusted monthly payments made to the hospital, divided by three.

(g) Payment under subdivisions (d), (e), and (f) for a month shall be made only to private hospitals open for patient care through the 15th day of the month.

(h) The department shall compute a final adjusted payment amount for each private hospital on the final disproportionate share list for a project year after the completion of the project year and the determination of the amount of stabilization funding available to be paid under this section as follows:

(1) An amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department. These amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the annual data corrected payment amounts computed under paragraph (1) of subdivision (f) in a manner that ensures that any payments not payable or recouped are redistributed among hospitals eligible for a final adjusted payment amount in accordance with the calculations made pursuant to Section 14105.98.

(2) The department shall add to the amount computed for each hospital under paragraph (1) a pro rata share of any stabilization funding to be allocated and paid under this section, allocated based on the amounts computed under paragraph (1).

(3) The department shall for each hospital for each project year reconcile the total amount paid to the hospital for that project year under subdivisions (d), (e), and (f) with the amount determined under paragraph (2). The department shall issue a report to each hospital setting forth the result of the reconciliation that shall include the department's computation, data, and identification of data sources. The department shall pay to the hospital any underpayment determined as a result of this reconciliation and collect from the hospital any overpayment determined as a result of this reconciliation pursuant to paragraph (4) of subdivision (d).

(4) A hospital may seek to correct the department's data and computations under this section in accordance with the processes undertaken by the department to implement Section 14105.98 in effect during the 2004–05 state fiscal year.

(i) In accordance with the demonstration project, the following shall apply:

(1) Payments under this section shall satisfy the state's obligation to have a payment adjustment program for disproportionate share hospitals under Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396r-4).

(2) Payments under this section and federal financial participation shall not be counted against the state's allotment of federal funding for Medicaid disproportionate share payment adjustments.

(j) (1) For purposes of this subdivision, "federal disproportionate share allotment" means the federal Medicaid disproportionate share hospital allotment specified for California under Section 1396r-4(f) of Title 42 of the United States Code.

(2) In the event any hospital, or any party on behalf of a hospital, shall initiate a case or proceeding in any state or federal court in which the hospital seeks any relief of any sort whatsoever, including, but not limited to, monetary relief, injunctive relief, declaratory relief, or a writ, based in whole or in part on a contention that the hospital is entitled to, or should receive any portion of, the federal disproportionate share hospital allotment for any or all of federal fiscal years 2006 to 2010, inclusive, all of the following shall apply:

(A) No payments shall be made to the hospital pursuant to this section until the case or proceeding is finally resolved, including the final disposition of all appeals.

(B) Any amount computed to be payable to the hospital pursuant to this section for a project year shall be withheld by the department and

shall be paid to the hospital only after the case or proceeding is finally resolved, including the final disposition of all appeals, and only if the case or proceeding does not result in any amount being paid or payable to the hospital from the federal disproportionate share hospital allotment for any portion of the project year.

(C) The hospital shall become ineligible to receive any amount pursuant to this section for any project year for which it is determined that the hospital is entitled to be paid any portion of the federal disproportionate share hospital allotment.

(D) Any amount that would have been payable to the hospital pursuant to this section, but is not paid to the hospital because the hospital has become ineligible to receive payments pursuant to this section shall be returned to the state General Fund.

(E) In the event any portion of the federal disproportionate share hospital allotment is applied to payments to any private hospital, the department shall make any additional payments that may be necessary from state funds so that the amount of the disproportionate share hospital payments that are made to designated public hospitals or nondesignated public hospitals is not less than the amount that would have been made if the allotment had not been applied to payments to any private hospital.

(F) A hospital's total project year payment amount determined under this section may be subject to reduction by offset pursuant to Section 14115.5 or 14172.5.

SEC. 8. Section 14166.12 of the Welfare and Institutions Code is amended to read:

14166.12. (a) The California Medical Assistance Commission shall negotiate payment amounts, in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081), from the Private Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to private hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Private Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Private Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One hundred eighteen million four hundred thousand dollars ($118,400,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund pursuant to paragraph (2) of subdivision (a) of Section 14166.14.

(4) Any moneys that any county, other political subdivision of the state, or other governmental entity in the state may elect to transfer to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal Medicaid laws.

(5) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(6) Any interest that accrues on amounts in the fund.

(e) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(f) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity that qualify for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(i) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program (Article 2.6 (commencing with Section 14081)), and shall not affect provider rates paid under the selective provider contracting program.

(j) Each private hospital that was a private hospital during the 2002–03 fiscal year, received payments for the 2002–03 fiscal year from any of the prior supplemental funds, and, during the project year, satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, shall receive no less from the Private Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year. Each private hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (k).

(k) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (j) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to private hospitals, which for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program established under Article 2.6 (commencing with Section 14081).

(*l*) The amount of any stabilization funding transferred to the fund, or the amount of intergovernmental transfers deposited to the fund pursuant to subdivision (o), together with the associated federal reimbursement, with respect to a particular project year, may, in the discretion of the California Medical Assistance Commission, be paid for services furnished in the same project year regardless of when the stabilization funds or intergovernmental transfer funds, and the associated federal reimbursement, become available, provided the payment is consistent with other applicable federal or state law requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(m) The department shall pay amounts due to a private hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (j) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year.

The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 and do not meet the criteria under Section 14085.6, 14085.8, or 14085.9, which shall be paid in accordance with the applicable contract or contract amendment negotiated by the California Medical Assistance Commission.

(n) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and shall pay the scheduled payments in accordance with the applicable contract or contract amendment.

(o) Payments to private hospitals that are eligible to receive payments pursuant to Section 14085.6, 14085.7, 14085.8, or 14085.9 may be made using funds transferred from governmental entities to the state, at the option of the governmental entity. Any payments funded by intergovernmental transfers shall remain with the private hospital and shall not be transferred back to any unit of government. An amount equal to 25 percent of the amount of any intergovernmental transfer made in the project year that results in a supplemental payment made for the same project year to a project year private DSH hospital designated by the governmental entity that made the intergovernmental transfer shall be deposited in the fund for distribution as determined by the California Medical Assistance Commission. An amount equal to 75 percent shall be deposited in the fund and distributed to the private hospitals designated by the governmental entity.

(p) A private hospital that receives payment pursuant to this section for a particular project year shall not submit a notice for the termination of its participation in the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) until the later of the following dates:

(1) On or after December 31 of the next project year.

(2) The date specified in the hospital's contract, if applicable.

SEC. 9. Section 14166.13 of the Welfare and Institutions Code is amended to read:

14166.13. (a) With respect to each project year, the director shall determine a baseline funding amount for each base year private DSH hospital that is also a project year private DSH hospital. A private hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 state fiscal year, including

the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081), or under the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The aggregate project year private DSH hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a).

(c) With respect to each project year beginning after the 2005–06 project year, an aggregate project year private hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), for inpatient hospital services rendered during the 2004–05 fiscal year for project year private DSH hospitals, less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable for inpatient hospital services rendered during the fiscal year immediately preceding the project year for which the private hospital adjusted baseline funding amount is being calculated for project year private DSH hospitals. The aggregate total revenue for services rendered in the relevant preceding fiscal year shall include the payments described in paragraphs (1) and (6) of subdivision (a), and all other payments made to project year private DSH hospitals under this article, excluding disproportionate share hospital replacement payments made under Section 14166.11, stabilization funding under Section 14166.14, and distressed hospital funding under Section 14166.23 and paragraph (3) of subdivision (b) of Section 14166.20.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage in subparagraph (B) to the amount determined by subtracting the total amount of payments described in paragraph (5) of subdivision (a) from the aggregate project year private DSH hospital baseline funding amount determined under subdivision (b).

(4) The aggregate private hospital adjusted baseline funding amount is the amount determined in paragraph (1), plus the amount determined in subparagraph (C), plus the amount in paragraph (5) of subdivision (a).

SEC. 10. Section 14166.14 of the Welfare and Institutions Code is amended to read:

14166.14. The amount of any stabilization funding payable to the project year private DSH hospitals under Section 14166.20 for a project year, which amount shall not include the amount of stabilization funding paid or payable to hospitals prior to the computation of the stabilization funding under Section 14166.20, plus any amount payable to project year private DSH hospitals under paragraph (1) of subdivision (b) of Section 14166.21, shall be allocated as follows:

(a) (1) To fund any shortfall due under Section 14166.11.

(2) An amount shall be transferred to the Private Hospital Supplemental Fund established pursuant to Section 14166.12, as may be necessary so that the amount for the Private Hospital Supplemental Fund for the project year, including all funds previously transferred to, or deposited in, the Private Hospital Supplemental Fund for the project year, is not less than the Private Hospital Supplemental Fund base amount determined pursuant to subdivision (j) of Section 14166.12.

(3) The amounts paid or transferred under paragraphs (1) and (2) shall be reduced pro rata if there is not sufficient funding described under paragraphs (1) and (2).

(b) Of the stabilization funding remaining, after allocations pursuant to subdivision (a), that are payable to project year private DSH hospitals, 66.4 percent shall be allocated and distributed among those hospitals pro rata based on the amounts determined in accordance with Section 14166.11, and 33.6 percent shall be transferred to the Private Hospital Supplemental Fund.

SEC. 11. Section 14166.16 of the Welfare and Institutions Code is amended to read:

14166.16. (a) The department shall pay to each nondesignated public hospital that is an eligible hospital for the project year, as determined under Section 14105.98, disproportionate share hospital payment adjustments as more specifically set forth in this section.

(b) For each project year, the department shall develop and issue a tentative and final disproportionate share list in accordance with Section 14105.98.

(c) (1) The department shall compute, for each nondesignated public hospital that is an eligible disproportionate share hospital for the project year, the payment adjustment amounts as determined under paragraphs (1) to (4), inclusive, and (6) to (8), inclusive, of subdivision (am) of Section 14105.98, and the supplemental payment adjustment amounts as determined under paragraphs (1) to (3), inclusive, of subdivision (an) of Section 14105.98.

(2) The department shall perform the computations set forth in Section 14163 to determine the hospital's transfer amount as though that section were still in effect.

(3) The disproportionate share hospital payment amount for each nondesignated public hospital for each project year shall be the sum of the amounts computed under paragraph (1) less the amount determined for the hospital under paragraph (2).

(4) For purposes of the computations under this subdivision, the federal disproportionate share hospital allotment for California for each project year shall be the allotment effective during the federal fiscal year beginning during the project year.

(5) Notwithstanding any other provision of law, the transfer amounts from the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund, as provided for pursuant to paragraph (2) of subdivision (d) of Section 14163, shall be deemed to be eighty-five million dollars ($85,000,000) for purposes of the computations under this subdivision.

(6) Subdivision (m) of Section 14105.98 shall apply to payments made under this section.

(7) The federal share of the payment amounts determined under this subdivision and paid pursuant to this section, excluding the stabilization funding amounts allocated and paid pursuant to paragraph (2) of subdivision (i), shall be drawn from the allotment of federal funds for Medicaid disproportionate share hospital payment adjustments for California specified under Section 1396r-4(f) of Title 42 of the United States Code.

(d) To the extent necessary to compute and determine compliance with the hospital-specific disproportionate share hospital payment limitations described in paragraph (3) of subdivision (c) of Section

14166.3, nondesignated public hospitals shall comply with subdivisions (a), (b), and (d) of Section 14166.8.

(e) Two interim payments shall be made for the first portion of the project year, on October 1 and December 1 of each project year, as follows:

(1) The interim payments shall be made to each nondesignated public hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount for each hospital shall be paid in two equal amounts on October 1 and December 1 of each project year, which combined shall equal five-twelfths of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section, except that for the 2005–06 project year, the combined amount shall equal the amount that was payable to the hospital for the 2004–05 fiscal year under Section 14105.98, less the transfer amount assessed with respect to the hospital under Section 14163 for the same fiscal year, multiplied by five-twelfths. The interim payment amount may be adjusted to reflect any changes in the total payment amounts, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment to each hospital for a project year shall be made no later than 60 days after the issuance of the tentative disproportionate share hospital list for the project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments made under this subdivision for a project year to a hospital that is not on the final disproportionate share hospital list for the project year. These interim payments shall be considered an overpayment. The department shall issue a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department's determination of an overpayment under this subdivision pursuant to the appeal procedures set forth in Sections

51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that the only issues that may be raised in the appeal are whether the hospital, but for inadvertent error by the department, was on the final disproportionate share list for the project year and whether the department's computation of the overpayment amount is correct. If the hospital is reinstated on the final disproportionate share list pursuant to Section 14105.98, the department shall promptly refund any amount recovered under this paragraph.

(f) Tentative adjusted monthly payments shall be made for December through March of each project year to each nondesignated public hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An adjusted payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, less the amount computed pursuant to Section 14163, each as most recently computed by the department as described in subdivision (c).

(2) A tentative adjusted monthly payment amount shall be computed for each hospital equal to the adjusted payment amount for the hospital, minus the aggregate interim payments made to the hospital for the project year, divided by seven.

(3) The computation of tentative adjusted monthly payments described in this subdivision shall be made promptly after the department issues the final disproportionate share hospital list for the project year.

(4) The first tentative adjusted monthly payment to each hospital for a project year shall be made by January 15 or within 60 days after the issuance of the final disproportionate share hospital list for the project year, whichever is later, and shall include the tentative adjusted monthly payment amounts for all prior months in the project year for which those payments are due. Subsequent tentative adjusted monthly payments for a project year shall be made on the last checkwrite of each month made by the Controller until tentative adjusted monthly payments for December through March of the project year have been made.

(g) Three data corrected payments shall be made on the last checkwrite of the month made by the Controller for the months of April through June of each project year to each nondesignated public hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An annual data corrected payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount

for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, less the amount computed pursuant to Section 14163, each as most recently computed by the department as described in subdivision (c). The annual data corrected payment amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the adjusted payment amounts computed under paragraph (1) of subdivision (d).

(2) A monthly data corrected payment amount shall be computed for each hospital equal to the annual data corrected payment amount for the hospital, minus both the aggregate interim payments made to the hospital for the project year and the aggregate tentative adjusted monthly payments made to the hospital, divided by three.

(h) Payment under subdivisions (e), (f), and (g) for a month shall be made only to hospitals open for patient care through the 15th day of the month.

(i) The department shall compute a final adjusted payment amount for each nondesignated public hospital on the final disproportionate share list for a project year after the completion of the project year and the determination of the amount of stabilization funding available to be paid under this section as follows:

(1) An amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, less the amount computed pursuant to Section 14163, each as most recently computed by the department as described in subdivision (c). These amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the annual data corrected payment amounts computed under paragraph (1) of subdivision (e) in a manner that ensures that any payments not payable or recouped are redistributed among hospitals eligible for a final adjusted payment amount in accordance with the calculations made pursuant to Section 14105.98.

(2) The department shall add to the amount computed for each hospital under paragraph (1) a pro rata share of any stabilization funding to be allocated and paid under this section allocated based on the amounts computed under paragraph (1). The federal share of any stabilization funding allocated and paid under this section shall not be drawn from the allotment of federal funding for Medicaid disproportionate share hospital payment adjustments for California specified under Section 1396r-4(f) of Title 42 of the United States Code.

(3) The department shall for each hospital for each project year reconcile the total amount computed for the hospital for the project year under subdivisions (c), (d), and (e) with the amount determined under paragraph (2). The department shall issue a report to each hospital setting forth the result of the reconciliation that shall include the department's computation, data, and identification of data sources. The department shall pay to the hospital any underpayment determined as a result of this reconciliation and collect from the hospital any overpayment determined as a result of this reconciliation.

(4) A hospital may seek to correct the department's data and computations under this section in accordance with the processes undertaken by the department to implement Section 14105.98 in effect during the 2004–05 fiscal year.

SEC. 12. Section 14166.17 of the Welfare and Institutions Code is amended to read:

14166.17. (a) The California Medical Assistance Commission shall negotiate payment amounts in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) from the Nondesignated Public Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to nondesignated public hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Nondesignated Public Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Nondesignated Public Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One million nine hundred thousand dollars ($1,900,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the fund.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund.

(4) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(5) Any interest that accrues on amounts in the fund.

(e) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds

transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(f) Moneys in the funds shall be used as the source for the nonfederal share of payments to hospitals under this section.

(g) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(h) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracts negotiated under Article 2.6 (commencing with Section 14081), and shall not affect provider rates paid under the selective provider contracting program.

(i) Each nondesignated public hospital that was a nondesignated public hospital during the 2002–03 fiscal year, received payments for the 2002–03 fiscal year from any of the prior supplemental funds, and, during the project year satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections shall receive no less from the Nondesignated Public Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year, minus the total amount of intergovernmental transfers made by or on behalf of the hospital pursuant to Sections 14085.6, 14085.7, 14085.8, and 14085.9 for the same fiscal year. Each hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (j).

(j) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (i) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to nondesignated public hospitals that for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program under Article 2.6 (commencing with Section 14081).

(k) The amount of any stabilization funding transferred to the fund with respect to a project year may in the discretion of the California Medical Assistance Commission to be paid for services furnished in the same project year regardless of when the stabilization funds become available, provided the payment is consistent with other applicable federal or state legal requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(*l*) The department shall pay amounts due to a nondesignated hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (i) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 but do not meet the criteria under Section 14085.6, 14085.8, or 14085.9.

(m) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and paid in accordance with the applicable contract or contract amendment.

(n) A nondesignated public hospital that receives payment pursuant to this section for a particular project year shall not submit a notice for the termination of its participation in the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) until the later of the following dates:

(1) On or after December 31 of the next project year.

(2) The date specified in the hospital's contract, if applicable.

SEC. 13. Section 14166.18 of the Welfare and Institutions Code is amended to read:

14166.18. (a) With respect to each project year, the director shall determine a baseline funding amount for each nondesignated public

hospital that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for both the 2004–05 fiscal year and the project year. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081) or the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each nondesignated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004–05 state fiscal year by the nondesignated public hospital, or on its behalf by the governmental entity with which it is affiliated.

(c) The aggregate nondesignated public hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a), as adjusted by subdivision (b).

(d) With respect to each project year beginning after the 2005–06 project year, an aggregate nondesignated public hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), as adjusted by subdivision (b), but excluding the reductions for the amount of intergovernmental transfers made pursuant to Section 14163, with respect to inpatient hospital services rendered during the 2004–05 fiscal year, for nondesignated public hospitals that were eligible hospitals under paragraph (3) of subdivision (a) of Section 14105.98 for the project year,

less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable for inpatient hospital services rendered during the fiscal year preceding the project year for which the nondesignated public hospital adjusted baseline funding amount is being calculated for the nondesignated public hospitals described in paragraph (1). The aggregate total revenue for services rendered in the particular preceding fiscal year shall include the payments that are described under paragraphs (1) and (6) of subdivision (a), and all other payments made to nondesignated public hospitals under this article, excluding disproportionate share hospital payments pursuant to Section 14166.16, stabilization funding pursuant to Section 14166.19, and distressed hospital funding pursuant to Section 14166.23 and paragraph (3) of subdivision (b) of Section 14166.20.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to the amount that results from both of the following:

(i) Aggregating the nondesignated public hospital baseline funding amounts determined under subdivision (a), as adjusted by subdivision (b), but excluding the reductions for the amount of intergovernmental transfers made pursuant to Section 14163.

(ii) Subtracting from the amount in clause (i) the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(D) The aggregate nondesignated public hospital adjusted baseline funding amount is the amount determined in subdivision (c), plus the resulting product determined in subparagraph (C).

SEC. 14. Section 14166.20 of the Welfare and Institutions Code is amended to read:

14166.20. (a) With respect to each project year, the total amount of stabilization funding shall be the sum of the following:

(1) Federal Medicaid funds available in the Health Care Support Fund, established pursuant to Section 14166.21, reduced by the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, project year private DSH hospitals in the aggregate, and nondesignated public hospitals in the aggregate as determined in Sections 14166.5, 14166.13, and

14166.18, respectively, taking into account all other payments to each hospital under this article. This amount shall be not less than zero.

(2) The state general funds that were made available due to the receipt of federal funding for previously state-funded programs through the safety net care pool and any federal Medicaid hospital reimbursements resulting from these expenditures, unless otherwise recognized under paragraph (1), to the extent those funds are in excess of the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, for project year private DSH hospitals in the aggregate, and for nondesignated public hospitals in the aggregate, as determined in Sections 14166.5, 14166.13, and 14166.18, respectively.

(3) To the extent not included in paragraph (1) or (2), the amount of the increase in state General Fund expenditures for Medi-Cal inpatient hospital services for the project year for project year private DSH hospitals and nondesignated public hospitals, including amounts expended in accordance with paragraph (1) of subdivision (c) of Section 14166.23 that exceeds the expenditure amount for the same purpose and the same hospitals in the 2004–05 state fiscal year, and any direct grants to designated public hospitals for services under the demonstration project.

(4) To the extent not included in paragraph (2), federal Medicaid funds received by the state as a result of the General Fund expenditures described in paragraph (3).

(5) The federal Medicaid funds received by the state as a result of federal financial participation with respect to Medi-Cal payments for inpatient hospital services made to project year private DSH hospitals for services rendered during the project year, the state share of which was derived from intergovernmental transfers or certified public expenditures of any public entity that does not own or operate a public hospital.

(b) With respect to the 2005–06 and 2006–07 project years, the stabilization funding determined under subdivision (a) shall be allocated as follows:

(1) Eight million dollars ($8,000,000) shall be paid to San Mateo Medical Center. All or a portion of this amount may be paid as disproportionate share hospital payments in addition to the hospital's allocation that would otherwise be determined under Section 14166.6. The amount provided for in this paragraph shall be disregarded in the application of the limitations described in paragraph (3) of subdivision (a) of Section 14166.6, and in paragraph (1) of subdivision (a) of Section 14166.7.

(2) (A) Ninety-six million five hundred thousand dollars ($96,500,000) shall be allocated to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty-two million five hundred thousand dollars ($42,500,000) shall be allocated to private DSH hospitals to be paid in accordance with Section 14166.14.

(C) In the event that stabilization funding is less than one hundred forty-seven million dollars ($147,000,000), the amounts allocated to designated public hospitals and private DSH hospitals under this paragraph shall be reduced proportionately.

(3) An amount equal to the lesser of 10 percent of the total amount determined under subdivision (a) or twenty-three million five hundred thousand dollars ($23,500,000) shall be made available for additional payments to distressed hospitals that participate in the selective provider contracting program under Article 2.6 (commencing with Section 14081), including designated public hospitals, in amounts to be determined by the California Medical Assistance Commission. The additional payments to designated public hospitals shall be negotiated by the California Medical Assistance Commission, but shall be paid by the department in the form of a direct grant rather than as Medi-Cal payments.

(4) An amount equal to 0.64 percent of the total amount determined under subdivision (a), to nondesignated public hospitals to be paid in accordance with Section 14166.19.

(5) The amount remaining after subtracting the amount determined in paragraphs (1) to (4), inclusive, shall be allocated as follows:

(A) Sixty percent to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty percent to project year private DSH hospitals to be paid in accordance with Section 14166.14.

(c) By April 1 of the year following the project year for which the payment is made, and after taking into account final amounts otherwise paid or payable to hospitals under this article, the director shall calculate in accordance with subdivision (a), allocate in accordance with subdivision (b), and pay to hospitals in accordance with Sections 14166.75, 14166.14, and 14166.19, as applicable, the stabilization funding.

(d) For purposes of determining amounts paid or payable to hospitals under subdivision (c), the department shall apply the following:

(1) In determining amounts paid or payable to designated public hospitals that are based on allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, the following shall apply:

(A) If the final payment amount is based on the hospital's Medicare cost report, the department shall rely on the cost report filed with the Medicare fiscal intermediary for the project year for which the calculation is made, reduced by a percentage that represents the average percentage change from total reported costs to final costs for the three most recent cost reporting periods for which final determinations have been made, taking into account all administrative and judicial appeals. Protested amounts shall not be considered in determining the average percentage change unless the same or similar costs are included in the project year cost report.

(B) If the final payment amount is based on costs not included in subparagraph (A), the reported costs as of the date the determination is made under subdivision (c), shall be reduced by 10 percent.

(C) In addition to adjustments required in subparagraphs (A) and (B), the department shall adjust amounts paid or payable to designated public hospitals by any applicable deferrals or disallowances identified by the federal Centers for Medicare and Medicaid Services as of the date the determination is made under subdivision (c) not otherwise reflected in subparagraphs (A) and (B).

(2) Amounts paid or payable to project year private DSH hospitals and nondesignated public hospitals shall be determined by the most recently available Medi-Cal paid claims data increased by a percentage to reflect an estimate of amounts remaining unpaid.

(e) The department shall consult with hospital representatives regarding the appropriate calculation of stabilization funding before stabilization funds are paid to hospitals. The calculation may be comprised of multiple steps involving interim computations and assumptions as may be necessary to determine the total amount of stabilization funding under subdivision (a) and the allocations under subdivision (b). No later than 30 days after this consultation, the department shall establish a final determination of stabilization funding that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

(f) The department shall distribute 75 percent of the estimated stabilization funding on an interim basis throughout the project year.

(g) The allocation and payment of stabilization funding shall not reduce the amount otherwise paid or payable to a hospital under this article or any other provision of law, unless the reduction is required by the demonstration project's Special Terms and Conditions or by federal law.

SEC. 15. Section 14166.21 of the Welfare and Institutions Code is amended to read:

14166.21. (a) The Health Care Support Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this article. The fund shall include any interest that accrues on amounts in the fund.

(b) Amounts in the Health Care Support Fund shall be paid in the following order of priority:

(1) To hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet the aggregate baseline funding amount, or the adjusted aggregate baseline funding amount for project years after the 2005-06 project year, as specified in subdivision (d) of Section 14166.5, subdivision (b) of Section 14166.13, and Section 14166.18, taking into account all other payments to each hospital under this article, except payments made from the Distressed Hospital Fund pursuant to Section 14166.23 and payments made to distressed hospitals pursuant to paragraph (3) of subdivision (b) of Section 14166.20. If the amount in the Health Care Support Fund is inadequate to provide full aggregate baseline funding, or adjusted aggregate baseline funding, to all designated public hospitals, project year private DSH hospitals, and nondesignated public hospitals, each group's payments shall be reduced pro rata.

(2) To the extent necessary to maximize federal funding under the demonstration project and consistent with Section 14166.22, the department may claim safety net care pool funds based on health care expenditures incurred by the department for uncompensated medical care costs of medical services provided to uninsured individuals, as approved by the federal Centers for Medicare and Medicaid Services.

(3) Stabilization funding, allocated and paid in accordance with Sections 14166.75, 14166.14, and 14166.19, and paragraph (3) of subdivision (b) of Section 14166.20.

(4) Any amounts remaining after final reconciliation of all amounts due at the end of a project year shall remain available for payments in accordance with this section in the next project year.

SEC. 16. Section 14166.23 of the Welfare and Institutions Code is amended to read:

14166.23. (a) For purposes of this section, "distressed hospitals" are hospitals that participate in selective providers contracting under Article 2.6 (commencing with Section 14081) and that meet all of the following requirements, as determined by the California Medical Assistance Commission in its discretion:

(1) The hospital serves a substantial volume of Medi-Cal patients measured either as a percentage of the hospital's overall volume or by the total volume of Medi-Cal services furnished by the hospital.

(2) The hospital is a critical component of the Medi-Cal program's health care delivery system, such that the Medi-Cal health care delivery system would be significantly disrupted if the hospital reduced its Medi-Cal services or no longer participated in the Medi-Cal program.

(3) The hospital is facing a significant financial hardship that may impair its ability to continue its range of services for the Medi-Cal program.

(b) The Distressed Hospital Fund is hereby created in the State Treasury.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) The amounts transferred to the fund pursuant to subdivision (e).

(2) Any additional amounts appropriated to the fund by the Legislature.

(3) Any interest that accrues on amounts in the fund.

(e) The following amounts shall be transferred to the fund from the prior supplemental funds at the beginning of each project year.

(1) Twenty percent of the amount in the prior supplemental funds on the effective date of this article, less any and all payments for services rendered prior to July 1, 2005, but paid after July 1, 2005.

(2) Interest that accrued on the prior supplemental funds during the prior project year.

(f) No distributions, payments, transfers, or disbursements shall be made from the prior supplemental funds except as set forth in this section.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Except as otherwise provided in subdivision (j), moneys shall be applied to obtain federal financial participation to the extent available in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program, and shall not affect provider rates paid under the selective provider contracting program.

(i) Subject to subdivision (j), all amounts that are in the fund shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for additional payments to distressed hospitals. These amounts shall be paid under contracts entered into by the department and negotiated by the California Medical Assistance Commission pursuant to Article 2.6

(commencing with Section 14081), provided that any amounts payable to a designated public hospital shall be paid in the form of a direct grant of state general funds pursuant to a contract negotiated by the California Medical Assistance Commission.

(j) After April 1, 2007, and each April 1 thereafter, in the event that funding under this article is insufficient to meet the adjusted aggregate baseline funding amounts for a particular project year, as determined in subdivision (d) of Section 14166.5, and in Sections 14166.13 and 14166.18, funds under this section shall first be available for use under contracts negotiated by the California Medical Assistance Commission for hospitals contracting under the selective provider contracting program under Article 2.6 (commencing with Section 14081) in an effort to address the insufficiency, to the extent funds under this section are available on or after April 1 for the particular project year.

(k) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

CHAPTER 328

An act to amend Section 12693.70 of, to add Sections 12693.98a and 12694 to, and to amend and repeal Section 12693.98 of, the Insurance Code, and to amend Section 14011.65 of, to add Section 14012.5 to, and to add and repeal Section 14011.65a of, the Welfare and Institutions Code, relating to health care coverage.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. It is the intent of the Legislature that by December 1, 2010, all children in the state shall have health care coverage.

SEC. 2. Section 12693.70 of the Insurance Code, as amended by Section 42 of Chapter 74 of the Statutes of 2006, is amended to read:

12693.70. To be eligible to participate in the program, an applicant shall meet all of the following requirements:

(a) Be an applicant applying on behalf of an eligible child, which means a child who is all of the following:

(1) Less than 19 years of age. An application may be made on behalf of a child not yet born up to three months prior to the expected date of delivery. Coverage shall begin as soon as administratively feasible, as determined by the board, after the board receives notification of the birth.

However, no child less than 12 months of age shall be eligible for coverage until 90 days after the enactment of the Budget Act of 1999.

(2) Not eligible for no-cost full-scope Medi-Cal or Medicare coverage at the time of application.

(3) In compliance with Sections 12693.71 and 12693.72.

(4) A child who meets citizenship and immigration status requirements that are applicable to persons participating in the program established by Title XXI of the Social Security Act, except as specified in Section 12693.76.

(5) A resident of the State of California pursuant to Section 244 of the Government Code; or, if not a resident pursuant to Section 244 of the Government Code, is physically present in California and entered the state with a job commitment or to seek employment, whether or not employed at the time of application to or after acceptance in, the program.

(6) (A) In either of the following:

(i) In a family with an annual or monthly household income equal to or less than 200 percent of the federal poverty level.

(ii) When implemented by the board, subject to subdivision (b) of Section 12693.765 and pursuant to this section, a child under the age of two years who was delivered by a mother enrolled in the Access for Infants and Mothers Program as described in Part 6.3 (commencing with Section 12695). Commencing July 1, 2007, eligibility under this subparagraph shall not include infants during any time they are enrolled in employer-sponsored health insurance or are subject to an exclusion pursuant to Section 12693.71 or 12693.72, or are enrolled in the full scope of benefits under the Medi-Cal program at no share of cost. For purposes of this clause, any infant born to a woman whose enrollment in the Access for Infants and Mothers Program begins after June 30, 2004, shall be automatically enrolled in the Healthy Families Program, except during any time on or after July 1, 2007, that the infant is enrolled in employer-sponsored health insurance or is subject to an exclusion pursuant to Section 12693.71 or 12693.72, or is enrolled in the full scope of benefits under the Medi-Cal program at no share of cost. Except as otherwise specified in this section, this enrollment shall cover the first 12 months of the infant's life. At the end of the 12 months, as a condition of continued eligibility, the applicant shall provide income information. The infant shall be disenrolled if the gross annual household income exceeds the income eligibility standard that was in effect in the Access for Infants and Mothers Program at the time the infant's mother became eligible, or following the two-month period established in Section 12693.981 if the infant is eligible for Medi-Cal with no share of cost. At the end of the second year, infants shall again be screened for program eligibility pursuant to this section, with income eligibility evaluated

pursuant to clause (i), subparagraphs (B) and (C), and paragraph (2) of subdivision (a).

(B) All income over 200 percent of the federal poverty level but less than or equal to 250 percent of the federal poverty level shall be disregarded in calculating annual or monthly household income.

(C) In a family with an annual or monthly household income greater than 250 percent of the federal poverty level, any income deduction that is applicable to a child under Medi-Cal shall be applied in determining the annual or monthly household income. If the income deductions reduce the annual or monthly household income to 250 percent or less of the federal poverty level, subparagraph (B) shall be applied.

(b) The applicant shall agree to remain in the program for six months, unless other coverage is obtained and proof of the coverage is provided to the program.

(c) An applicant shall enroll all of the applicant's eligible children in the program.

(d) In filing documentation to meet program eligibility requirements, if the applicant's income documentation cannot be provided, as defined in regulations promulgated by the board, the applicant's signed statement as to the value or amount of income shall be deemed to constitute verification.

(e) An applicant shall pay in full any family contributions owed in arrears for any health, dental, or vision coverage provided by the program within the prior 12 months.

(f) By January 2008, the board, in consultation with stakeholders, shall implement processes by which applicants for subscribers may certify income at the time of annual eligibility review, including rules concerning which applicants shall be permitted to certify income and the circumstances in which supplemental information or documentation may be required. The board may terminate using these processes not sooner than 90 days after providing notification to the Chair of the Joint Legislative Budget Committee. This notification shall articulate the specific reasons for the termination and shall include all relevant data elements that are applicable to document the reasons for the termination. Upon the request of the Chair of the Joint Legislative Budget Committee, the board shall promptly provide any additional clarifying information regarding implementation of the processes required by this subdivision.

SEC. 3. Section 12693.98 of the Insurance Code is amended to read:

12693.98. (a) (1) The Medi-Cal-to-Healthy Families Bridge Benefits Program is hereby established to provide any child who meets the criteria set forth in subdivision (b) with a one calendar-month period of health care benefits in order to provide the child with an opportunity to apply

for the Healthy Families Program established under Chapter 16 (commencing with Section 12693).

(2) The Medi-Cal-to-Healthy Families Bridge Benefits Program shall be administered by the board and the State Department of Health Services.

(b) (1) Any child who meets all of the following requirements shall be eligible for one calendar month of Healthy Families benefits funded by Title XXI of the Social Security Act, known as the State Children's Health Insurance Program:

(A) He or she has been receiving, but is no longer eligible for, full-scope Medi-Cal benefits without a share of cost.

(B) He or she is eligible for full-scope Medi-Cal benefits with a share of cost.

(C) He or she is under 19 years of age at the time he or she is no longer eligible for full-scope Medi-Cal benefits without a share of cost.

(D) He or she has family income at or below 200 percent of the federal poverty level.

(E) He or she is not otherwise excluded under the definition of "targeted low-income child" under subsections (b)(1)(B)(ii), (b)(1)(C), and (b)(2) of Section 2110 of the Social Security Act (42 U.S.C. Secs. 1397jj(b)(1)(B)(ii), 1397jj(b)(1)(C), and 1397jj(b)(2)).

(2) The one calendar month of benefits under this chapter shall begin on the first day of the month following the last day of the receipt of benefits without a share of cost.

(c) The income methodology for determining a child's family income, as required by paragraph (1) of subdivision (b) shall be the same methodology used in determining a child's eligibility for the full scope of Medi-Cal benefits.

(d) The one calendar-month period of Healthy Families benefits provided under this chapter shall be identical to the scope of benefits that the child was receiving under the Medi-Cal program without a share of cost.

(e) The one calendar-month period of Healthy Families benefits provided under this chapter shall only be made available through a Medi-Cal provider or under a Medi-Cal managed care arrangement or contract.

(f) Except as provided in subdivision (j), nothing in this section shall be construed to provide Healthy Families benefits for more than a one calendar-month period under any circumstances, including the failure to apply for benefits under the Healthy Families Program or the failure to be made aware of the availability of the Healthy Families Program, unless the circumstances described in subdivision (b) reoccur.

(g) (1) This section shall become operative on the first day of the second month following the effective date of this section, subject to paragraph (2).

(2) Under no circumstances shall this section become operative until, and shall be implemented only to the extent that, all necessary federal approvals, including approval of any amendments to the State Child Health Plan have been sought and obtained and federal financial participation under the federal State Children's Health Insurance Program, as set forth in Title XXI of the Social Security Act, has been approved.

(h) This section shall become inoperative if an unappealable court decision or judgment determines that any of the following apply:

(1) The provisions of this section are unconstitutional under the United States Constitution or the California Constitution.

(2) The provisions of this section do not comply with the State Children's Health Insurance Program, as set forth in Title XXI of the Social Security Act.

(3) The provisions of this section require that the health care benefits provided pursuant to this section are required to be furnished for more than two calendar months.

(i) If the State Child Health Insurance Program waiver described in Section 12693.755 is approved, and at the time the waiver is implemented, the benefits described in this section shall also be available to persons who meet the eligibility requirements of the program and are parents of, or, as defined by the board, adults responsible for, children enrolled to receive coverage under this part or enrolled to receive full-scope Medi-Cal services with no share of cost.

(j) The one month of benefits provided in this section shall be increased to two months commencing on implementation of the waiver referred to in Section 12693.755.

(k) This section shall cease to be implemented on the date that the Director of Health Services executes a declaration stating that implementation of the Healthy Families Presumptive Eligibility Program established pursuant to Section 12693.98a has commenced, and as of that date is repealed.

SEC. 4. Section 12693.98a is added to the Insurance Code, to read:

12693.98a. (a) (1) The Healthy Families Presumptive Eligibility Program is hereby established to provide any child who meets the criteria set forth in subdivision (b) with presumptive eligibility benefits until the board has determined the child's eligibility for the Healthy Families Program.

(2) The Healthy Families Presumptive Eligibility Program shall be administered by the board.

(b) (1) Any child who meets both of the following requirements shall be eligible for presumptive eligibility benefits under the Healthy Families Presumptive Eligibility Program:

(A) He or she has been receiving, but is no longer eligible for, full-scope Medi-Cal benefits without a share of cost, or he or she is eligible for full-scope Medi-Cal benefits with a share of cost.

(B) He or she otherwise appears to meet the income eligibility criteria for the Healthy Families Program.

(2) The presumptive eligibility benefits under this section shall begin on the first day of the month following the last day of the receipt of Medi-Cal benefits without a share of cost. Presumptive eligibility benefits under this section shall terminate at the end of the month in which a child's effective date in the Healthy Families Program begins or the end of the month in which the board determines that the child is not eligible for the Healthy Families Program. If the board determines that the child is eligible for the Healthy Families Program, the board shall enroll the child in the Healthy Families Program without an interruption in coverage. If the board determines that the child is ineligible for the Healthy Families Program, the board shall terminate the child's benefits under the Healthy Families Presumptive Eligibility Program.

(c) The income methodology for determining a child's family income for the purposes of the Healthy Families Presumptive Eligibility Program, as required by paragraph (1) of subdivision (b), shall be the same methodology used in determining a child's eligibility for the full scope of Medi-Cal benefits.

(d) The scope of presumptive eligibility benefits provided under the Healthy Families Presumptive Eligibility Program shall be identical to the scope of benefits that the child was receiving under the Medi-Cal program without a share of cost.

(e) The presumptive eligibility benefits provided under this section shall only be made available through a Medi-Cal provider or under a Medi-Cal managed care arrangement or contract.

(f) When an application is forwarded by the county to the Healthy Families Program, the county shall send the application to the Healthy Families Program via an electronic application format defined by the department, provided that the department has implemented the automated interfaces necessary to accomplish electronic submission of applications from the county to the Healthy Families Program without requiring duplicative data entry by the county. The transmission of the electronic application to the Healthy Families Program shall occur within the timeframes designated by the department.

(g) To the extent necessary, the department and the board may exchange a child's case file solely for the purpose of determining the

child's eligibility for the Medi-Cal program or the Healthy Families Program, without requiring the family's consent, to the extent allowed by federal law. Any information, including the child's case file, shall be kept confidential by the department and the board pursuant to state and federal law, and it shall be used only for the determination or continuation of eligibility.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department may adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) This section shall be implemented when the state has sought and obtained approval of any amendments to its state plan necessary to implement the changes to this section, pursuant to this act, and has obtained funding under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) for the provision of benefits under this section. Until the changes to this section, made by this act, are implemented, the Medi-Cal to Healthy Families Bridge Program established pursuant to Section 12693.98 shall remain in effect. Notwithstanding any other provision of law, and only when all necessary federal approvals have been obtained by the state, this section shall be implemented only to the extent federal financial participation under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is available to fund benefits provided under this section.

(j) Upon implementation of the Healthy Families Presumptive Eligibility Program pursuant to this section, the Director of Health Services shall execute a declaration, which shall be retained by the director, stating that implementation of the section has commenced.

SEC. 5. Section 12694 is added to the Insurance Code, to read:

12694. (a) The board and the department, in collaboration with program offices for the California Special Supplemental Food Program for Women, Infants, and Children (WIC or the WIC program), local WIC agencies, counties in their capacity of making Medi-Cal eligibility determinations, advocates, information technology specialists, and other stakeholders, shall design, promulgate, and implement policies and procedures for an automated enrollment gateway system developed by the department and the board that performs, but is not limited to performing, the following functions:

(1) To the extent that federal financial participation is available, allowing children applying to the WIC program to submit a simple

electronic application to simultaneously obtain presumptive eligibility for Medi-Cal and Healthy Families under Title XIX (42) U.S.C. 1396 et seq.) and Title XXI (42 U.S.C. 1397aa et seq.) of the Social Security Act and apply for enrollment into the Medi-Cal program or the Healthy Families Program with the consent of their parent or guardian.

(2) Modify the existing WIC enrollment system to obtain the minimum required data for enrollment in Medi-Cal and Healthy Families in order to provide an electronic transactional platform that is connected to the simple electronic application referenced in paragraph (1) and allowing for an interface between that application, the Medi-Cal Eligibility Data System (MEDS), and the Medi-Cal program or the Healthy Families Program, as relevant.

(3) Providing an automated real-time connection with MEDS for the purpose of checking an applicant's enrollment status.

(4) Allowing for the electronic transfer of information to the Medi-Cal program or the Healthy Families Program, as relevant, for the purpose of making the final eligibility determination.

(5) Checking, as relevant, available government databases for the purpose of electronically receiving information that is necessary to allow the Medi-Cal program or the Healthy Families Program to complete the eligibility determination. The department and the Managed Risk Medical Insurance Board shall comply with all applicable privacy and confidentiality provisions under federal and state law.

(b) The automated enrollment gateway system shall be constructed with the capacity to be used by entities operating the WIC program.

(c) The WIC application process shall be modified to provide an electronic application described in subdivision (a), which shall contain the information necessary to apply for the automated enrollment gateway system, supplemented by information required to apply for enrollment into the Medi-Cal program or the Healthy Families Program.

(d) Benefits for applicants opting to simultaneously obtain presumptive eligibility for enrollment under this section shall continue until a final eligibility determination is made for the Medi-Cal program or the Healthy Families Program pursuant to Section 14011.8 of the Welfare and Institutions Code.

(e) Operation of the automated enrollment gateway system for the WIC program shall occur within a timely and appropriate period as determined by the department and the board, in consultation with the stakeholders as provided in subdivision (a) subject to a specific appropriation being provided for that purpose in the Budget Act or in subsequent legislation. The automated enrollment gateway system shall comply with all applicable confidentiality and privacy protection in federal and state law and regulation.

(f) The WIC program shall collect income and residency information necessary for the Medi-Cal program and the Healthy Families Program documentation requirements for applications submitted through the automated enrollment gateway system. To the extent allowed by the federal government, the Medi-Cal and Healthy Families programs shall rely on income information obtained by WIC and upon the income verification process performed by WIC. The Medi-Cal and Healthy Families programs shall collect and verify citizenship and immigration information as required under those programs.

(g) Consistent with the provisions of this section, the Medi-Cal and Healthy Families programs may collect additional information needed to verify eligibility in those programs.

(h) Counties shall accept and process for a Medi-Cal eligibility determination applications provided by the WIC gateway system and ensure timely processing of these applications and a timely eligibility determination and ending of presumptive eligibility.

(i) The presumptive eligibility benefits provided under this section shall be identical to the benefits provided to children who receive full-scope Medi-Cal benefits without a share of cost, and shall only be made available through a Medi-Cal provider.

(j) The confidentiality and privacy protections set forth in Sections 10850 and 14100.2 of the Welfare and Institutions Code and all other confidentiality and privacy protections in federal and state law and regulation shall apply to all children and families using the automated enrollment gateway system as described in this section.

(k) The state shall promote and offer support to the WIC program for the use of the simple electronic application and the automated enrollment gateway system.

(*l*) The board shall seek approval of any amendments to the state plan necessary to implement this section, in accordance with Title XXI (42 U.S.C. Sec. 1397aa et seq.) of the federal Social Security Act.

(m) The department shall seek approval of any amendments to the state plan necessary to implement this section, in accordance with Title XIX (42 U.S.C. 1396 et seq.) of the federal Social Security Act. Notwithstanding any other provision of law, only when all necessary federal approvals have been obtained shall this section be implemented.

SEC. 6. Section 14011.65 of the Welfare and Institutions Code is amended to read:

14011.65. (a) To the extent allowed under federal law and only if federal financial participation is available under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.), the state shall administer the Medi-Cal to Healthy Families Accelerated Enrollment program, to provide any child who meets the criteria set forth in subdivision (b) with

temporary health benefits for the period described in paragraph (2) of subdivision (b), as established under Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code.

(b) (1) Any child who meets all of the following requirements, shall be eligible for temporary health benefits under this section:

(A) The child, or his or her parent or guardian, submits an application for the Medi-Cal program directly to the county.

(B) The child's income, as determined on the basis of the application described in subparagraph (A), is within the income limits established by the Healthy Families Program.

(C) The child is under 19 years of age at the time of the application.

(D) The county determines, on the basis of the application described in subparagraph (A), that the child is eligible for full scope Medi-Cal with a share of cost.

(E) The child is not receiving Medi-Cal benefits at the time that the application is submitted.

(F) The child, or his or her parent or guardian, gives, or has given consent for the application to be shared with the Healthy Families Program for purposes of determining the child's Healthy Families Program eligibility.

(2) The period of accelerated eligibility provided for under this section begins on the first day of the month that the county finds that the child meets all of the criteria described in paragraph (1) and concludes on the last day of the month that the child either is fully enrolled in, or has been determined ineligible for, the Healthy Families Program.

(3) For any child who meets the requirements for temporary health benefits under this section, the county shall forward to the Healthy Families Program sufficient information from the child's application to determine eligibility for the Healthy Families Program. To the extent possible, submission of that information to the Healthy Families Program shall be accomplished using an electronic process developed for use in the Medi-Cal-to-Healthy Families Bridge Benefits Program. The department shall give the Healthy Families Program a daily electronic file of all children provided temporary health benefits pursuant to this section.

(4) The temporary health benefits provided under this section shall be identical to the benefits provided to children who receive full-scope Medi-Cal benefits without a share of cost and shall only be made available through a Medi-Cal provider.

(c) The department, in consultation with the Managed Risk Medical Insurance Board and representatives of the local agencies that administer the Medi-Cal program, consumer advocates, and other stakeholders,

shall develop and distribute the policies and procedures, including any all-county letters, necessary to implement this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department may adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The department shall seek approval of any amendments to the state plan necessary to implement this section, in accordance with Title XIX (42 U.S.C. Sec. 1396 et seq.) of the Social Security Act. Notwithstanding any other provision of law, only when all necessary federal approvals have been obtained shall this section be implemented.

(f) Under no circumstances shall this section be implemented unless the state has sought and obtained approval of any amendments to its state plan, as described in Section 12693.50 of the Insurance Code, necessary to implement this section and obtain funding under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) for the provision of benefits provided under this section. Notwithstanding any other provision of law, and only when all necessary federal approvals have been obtained by the state, this section shall be implemented only to the extent federal financial participation under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is available to fund benefits provided under this section.

(g) The department shall commence implementation of this section on the first day of the third month following the month in which federal approval of the state plan amendment or amendments described in subdivision (f), and subdivision (b) of Section 12693.50 of the Insurance Code is received, or on August 1, 2006, whichever is later.

(h) This section shall cease to be implemented on the date that the director executes a declaration, pursuant to subdivision (h) of Section 14011.65, stating that implementation of Section 14011.65a has commenced. Implementation of this section shall resume on the date that Section 14011.65a becomes inoperative, pursuant to subdivision (h) of that section.

SEC. 7. Section 14011.65a is added to the Welfare and Institutions Code, to read:

14011.65a. (a) To the extent allowed under federal law under Title XIX (42) U.S.C. 1396 et seq.) and Title XXI (42 U.S.C. 1397aa et seq.) of the Social Security Act, and only if federal financial participation is available under Title XXI (42 U.S.C. 1397aa et seq.) of the Social

Security Act, the state shall administer the Medi-Cal to Healthy Families Presumptive Eligibility Program, to provide any child who meets the criteria set forth in subdivision (b) with presumptive eligibility benefits for the period described in paragraph (4) of subdivision (b).

(b) (1) On the basis of an initial screen performed by the county when an application for Medi-Cal or Healthy Families Program eligibility is filed, any child who meets all of the following requirements, shall be eligible for presumptive eligibility benefits under this section:

(A) The child, or his or her parent or guardian, submits an application for the Medi-Cal program or the Healthy Families Program directly to the county.

(B) The child's income, as screened by the county on the basis of the application described in subparagraph (A), is not within the income levels necessary to establish no share-of-cost Medi-Cal eligibility.

(C) The child's income, as screened by the county on the basis of the application described in subparagraph (A), is within the income limits established by the Healthy Families Program.

(D) The child is under 19 years of age at the time of the application.

(E) The child is not receiving no-cost Medi-Cal or Healthy Families benefits at the time that the application is submitted.

(2) When the county performs the initial screen and determines that the child meets the criteria described in paragraph (1), the county shall establish presumptive eligibility for Healthy Families for that child. Once presumptive eligibility has been established, the county shall continue to determine child's eligibility for Medi-Cal on the basis of the filed application.

(3) When the county completes the Medi-Cal eligibility determination process and determines a child ineligible for no-cost Medi-Cal and the child appears to be income eligible for the Healthy Families Program, the county shall find the child presumptively eligible for the Healthy Families Program and comply with the standards set forth in paragraph (5) if either of the following conditions are met:

(A) The county determined the child eligible for Medi-Cal with a share of cost.

(B) The child is not income eligible for a poverty level program and the county did not establish no-cost Medi-Cal eligibility because the child did not complete or failed to pass the resource standard or establish disability or deprivation.

(4) The period of presumptive eligibility provided for under this section begins on the first day of the month that the county finds that the child meets all of the criteria described in paragraph (1) or (3), and concludes on the last day of the month of the child's effective date of

coverage in the Healthy Families Program, or determination of ineligibility for the Healthy Families Program.

(5) (A) For any child who meets the requirements for presumptive eligibility benefits under this section, the county shall forward to the Healthy Families Program the child's application, to determine eligibility for the Healthy Families Program. The submission of the application to the Healthy Families Program shall be accomplished using an electronic format, specified by the department provided that the department has implemented the automated interfaces necessary to accomplish electronic submission of applications from the county to the Healthy Families Program without requiring duplicative data entry by the county. If all of the eligibility criteria set forth in paragraph (1) of subdivision (b) are established at the time of application, the application to Healthy Families Program shall be forwarded in accordance with the timeframes established by the department.

(B) The department shall give the Healthy Families Program a daily electronic file of all children provided presumptive eligibility benefits pursuant to this section.

(6) The presumptive eligibility benefits provided under this section shall be identical to the benefits provided to children who receive full-scope Medi-Cal benefits without a share of cost and shall only be made available through a Medi-Cal provider.

(c) The department, in consultation with the Managed Risk Medical Insurance Board and representatives of the local agencies that administer the Medi-Cal program, consumer advocates, and other stakeholders, shall develop and distribute the policies and procedures, including any all-county letters, necessary to implement this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department may adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The department shall seek approval of any amendments to the state plan necessary to implement this section, in accordance with Title XIX (42 U.S.C. Sec. 1396 et seq.) of the Social Security Act. Notwithstanding any other provision of law, only when all necessary federal approvals have been obtained shall this section be implemented.

(f) Under no circumstances shall this section be implemented unless the state has sought and obtained approval of any amendments to its state plan, as described in Section 12693.50 of the Insurance Code,

necessary to implement this section and obtain funding under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) for the provision of benefits provided under this section. Notwithstanding any other provision of law, and only when all necessary federal approvals have been obtained by the state, this section shall be implemented only to the extent federal financial participation under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is available to fund benefits provided under this section.

(g) The department shall commence implementation of this section on the first day of the third month following the month in which federal approval of the state plan amendment or amendments described in subdivision (f), and subdivision (b) of Section 12693.50 of the Insurance Code is received, or on August 1, 2007, whichever is later.

(h) Upon implementation of the Medi-Cal to Healthy Families Presumptive Eligibility Program pursuant to this section, the director shall execute a declaration, which shall be retained by the director, stating that implementation of this section has commenced. This section shall become inoperative three years after the date that the director executes the declaration, and shall be repealed on January 1 of the year following the date upon which this section becomes inoperative.

SEC. 8. Section 14012.5 is added to the Welfare and Institutions Code, to read:

14012.5. (a) By July 1, 2007, the department shall implement a process that allows applicants and beneficiaries to self-certify the amount and nature of assets and income without the need to submit income or asset documentation.

(b) The process shall apply to applicants and beneficiaries in the program described in Section 14005.30, the federal poverty level programs for infants, children and pregnant women, the Medically-Indigent and Medically-Needy Programs for children and families, and other similar programs designated by the department, in order to preserve family unity or simplify administration. The process shall not apply to applicants or beneficiaries whose eligibility is based on their status as aged, blind, or based upon a disability determination unless, to the extent possible, they are members of families in which a child, parent, or spouse of that person is also a Medi-Cal applicant or beneficiary.

(c) The department shall implement the process of self-certification in two phases. The first phase shall be implemented in two counties as established in subdivision (d), and consistent with requirements set forth in this section. The second phase shall be implemented statewide as established in subdivision (h) and subject to the conditions set forth in this section.

(d) The department shall implement the first phase in two counties that have a combined Medi-Cal population of approximately 10 percent of the total statewide Medi-Cal population for the programs described in subdivision (b) as being eligible for the self-certification process. The department shall select the two counties for the initial phase of implementation by considering the following factors:

(1) The county's demonstrated record of completing eligibility determinations and redeterminations accurately and on a timely basis.

(2) The county's demonstrated record of accurately, quickly and successfully implementing programs.

(e) Each county shall agree to meet all federal requirements for income, resource, and other verifications, and to perform determinations and verifications in a timely manner.

(f) Following a two-year implementation of the first phase, the department shall promptly provide the fiscal and policy committees of the Legislature with an evaluation of the self-certification process and its impacts on the Medi-Cal program, including its impact on enrolling and retaining eligible persons, simplifying the program, assuring program and fiscal integrity, administrative costs, and its overall cost-benefit to the state.

(g) The director may modify or terminate the first phase of implementation not sooner than 90 days after providing notification to the Chair of the Joint Legislative Budget Committee. This notification shall articulate the specific reasons for the modification or termination and shall include all relevant data elements which are applicable to document the reasons provided for said modifications or termination. Upon the request of the Chair of the Joint Legislative Budget Committee, the director shall promptly provide any additional clarifying information regarding the first phase of implementation as requested.

(h) Following two years of operation in two counties and submission of the evaluation to the Legislature, the director, in consultation with the Department of Finance, shall determine whether to implement the self-certification process statewide. This determination shall be based on the outcomes of the evaluation, including the ability to increase enrollment of eligible children and families, and to maintain the overall integrity of the Medi-Cal program. Statewide implementation shall be contingent on a specific appropriation being provided for this purpose in the Budget Act or subsequent legislation.

(i) This section shall be implemented only if that, and to the extent, federal financial participation is available.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar

instructions, without taking any further regulatory action. Thereafter, the department shall adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) The department, in consultation with the Department of Finance, counties, and other interested stakeholders, shall determine which types of assets and income are appropriate for self-certification under this section.

(*l*) Nothing in this section shall be read to preclude a county from requesting documentation from any applicant or beneficiary regarding any income or asset where a question arises about such income or asset during the county's determination or redetermination of eligibility following receipt of the application or annual redetermination form.

(m) Nothing in this section shall change the ability of the department to self-certify income, assets, or other program information to the extent allowed under state or federal law, waiver, or the state plan.

(n) (1) This section shall not be implemented if the voters approve Proposition 86, the tobacco tax initiative, at the statewide general election on November 7, 2006.

(2) Notwithstanding paragraph (1) if Proposition 86 is approved by the voters at the statewide general election on November 7, 2006, this section shall be implemented during the pendency of any legal action concerning the validity of the proposition.

SEC. 9. The adoption and one readoption of any regulations by the Managed Risk Medical Insurance Board to implement this act shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted from the requirement that it describe specific facts showing the need for immediate action and from review by the Office of Administrative Law. For purpose of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

SEC. 10. Notwithstanding any other provision of law, this act shall be implemented only to the extent that funds are appropriated for the purposes of this act in the annual Budget Act or in another statute. To the extent that funds are appropriated for only a portion of the changes enacted pursuant to this act, those changes for which funds are appropriated shall be implemented.

SEC. 11. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 329

An act to amend Section 120440 of, and to add Section 120476 to, the Health and Safety Code, relating to immunizations.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. Section 120440 of the Health and Safety Code is amended to read:

120440. (a) For the purposes of this chapter, the following definitions shall apply:

(1) "Health care provider" means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(2) "Schools, child care facilities, and family child care homes" means those institutions referred to in subdivision (b) of Section 120335, regardless of whether they directly provide immunizations to patients or clients.

(3) "WIC service provider" means any public or private nonprofit agency contracting with the department to provide services under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106.

(4) "Health care plan" means a health care service plan as defined in subdivision (f) of Section 1345, a government-funded program the purpose of which is paying the costs of health care, or an insurer as described in Sections 10123.5 and 10123.55 of the Insurance Code, regardless of whether the plan directly provides immunizations to patients or clients.

(5) "County welfare department" means a county welfare agency administering the California Work Opportunity and Responsibility to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing with

Section 11200.5) of Part 3 of Division 9 of the Welfare and Institutions Code.

(6) "Foster care agency" means any of the county and state social services agencies providing foster care services in California.

(b) (1) Local health officers may operate immunization information systems pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of Health Services. Local health officers and the State Department of Health Services may operate these systems in either or both of the following manners:

(A) Separately within their individual jurisdictions.

(B) Jointly among more than one jurisdiction.

(2) Nothing in this subdivision shall preclude local health officers from sharing the information set forth in paragraphs (1) to (9), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c) Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code, or any other provision of law, unless a refusal to permit recordsharing is made pursuant to subdivision (e), health care providers, and other agencies, including, but not limited to, schools, child care facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, foster care agencies, and county welfare departments, may disclose the information set forth in paragraphs (1) to (9), inclusive, from the patient's medical record, or the client's record, to local health departments operating countywide or regional immunization information and reminder systems and the State Department of Health Services. Local health departments and the State Department of Health Services may disclose the information set forth in paragraphs (1) to (9), inclusive, to each other, and upon a request for information pertaining to a specific person, to health care providers taking care of the patient. Local health departments and the State Department of Health Services may disclose the information in paragraphs (1) to (6), inclusive, and paragraphs (8) and (9), to schools, child care facilities, county welfare departments, and family child care homes to which the person is being admitted or in attendance, foster care agencies in assessing and providing medical care for children in foster care, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county welfare departments assessing immunization histories of dependents of CalWORKs participants, upon request for information pertaining to a specific person. Determination of benefits based upon immunization of a dependent CalWORKs participant shall

be made pursuant to Section 11265.8 of the Welfare and Institutions Code. The following information shall be subject to this subdivision:

(1) The name of the patient or client and names of the parents or guardians of the patient or client.

(2) Date of birth of the patient or client.

(3) Types and dates of immunizations received by the patient or client.

(4) Manufacturer and lot number for each immunization received.

(5) Adverse reaction to immunizations received.

(6) Other nonmedical information necessary to establish the patient's or client's unique identity and record.

(7) Current address and telephone number of the patient or client and the parents or guardians of the patient or client.

(8) Patient's or client's gender.

(9) Patient's or client's place of birth.

(d) (1) Health care providers, local health departments, and the State Department of Health Services shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other medical record information with patient identification that they possess. These providers, departments, and contracting agencies are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for the following purposes:

(A) To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due.

(B) To provide or facilitate provision of third-party payer payments for immunizations.

(C) To compile and disseminate statistical information of immunization status on groups of patients or clients or populations in California, without identifying information for these patients or clients included in these groups or populations.

(D) In the case of health care providers only, as authorized by Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(2) Schools, child care facilities, family child care homes, WIC service providers, foster care agencies, county welfare departments, and health care plans shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other client, patient, and pupil information that they possess. These institutions and providers are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for those

purposes provided in subparagraphs (A) to (D), inclusive, of paragraph (1) and as follows:

(A) In the case of schools, child care facilities, family child care homes, and county welfare departments, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both, as described in Chapter 1 (commencing with Section 120325), and in Section 11265.8 of the Welfare and Institutions Code.

(B) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers.

(C) In the case of health care plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations.

(D) In the case of foster care agencies, to perform immunization status assessments of foster children and to assist those foster children found to be due or overdue for immunization in obtaining immunizations from health care providers.

(e) A patient or a patient's parent or guardian may refuse to permit recordsharing. The health care provider administering immunization and any other agency possessing any patient or client information listed in subdivision (c), if planning to provide patient or client information to an immunization system, as described in subdivision (b), shall inform the patient or client, or the parent or guardian of the patient or client, of the following:

(1) The information listed in subdivision (c) may be shared with local health departments, and the State Department of Health Services. The health care provider or other agency shall provide the name and address of the State Department of Health Services or of the immunization registry with which the provider or other agency will share the information.

(2) Any of the information shared with local health departments and the State Department of Health Services shall be treated as confidential medical information and shall be used only to share with each other, and, upon request, with health care providers, schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans. These providers, agencies, and institutions shall, in turn, treat the shared information as confidential, and shall use it only as described in subdivision (d).

(3) The patient or client, or parent or guardian of the patient or client, has the right to examine any immunization-related information shared in this manner and to correct any errors in it.

(4) The patient or client, or the parent or guardian of the patient or client, may refuse to allow this information to be shared in the manner described, or to receive immunization reminder notifications at any time, or both. After refusal, the patient or client's physician, may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Health Services may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(f) (1) The health care provider administering the immunization and any other agency possessing any patient or client information listed in subdivision (c), may inform the patient or client, or the parent or guardian of the patient or client, by ordinary mail, of the information in paragraphs (1) to (4), inclusive, of subdivision (e). The mailing must include a reasonable means for refusal, such as a return form or contact telephone number.

(2) The information in paragraphs (1) to (4), inclusive, of subdivision (e) may also be presented to the parent or guardian of the patient or client during any hospitalization of the patient or client.

(g) If the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared, pursuant to paragraph (4) of subdivision (e), the health care provider or other agency may not share this information in the manner described in subdivision (c), except as provided in subparagraph (D) of paragraph (1) of subdivision (d).

(h) (1) Upon request of the patient or client, or the parent or guardian of the patient or client, in writing or by other means acceptable to the recipient, a local health department or the State Department of Health Services that has received information about a person pursuant to subdivision (c) shall do all of the following:

(A) Provide the name and address of other persons or agencies with whom the recipient has shared the information.

(B) Stop sharing the information in its possession after the date of the receipt of the request.

(2) After refusal, the patient or client's physician, may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Health Services may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(i) Upon notification, in writing or by other means acceptable to the recipient, of an error in the information, a local health department or the

State Department of Health Services that has information about a person pursuant to subdivision (c) shall correct the error. If the recipient is aware of a disagreement about whether an error exists, information to that effect may be included.

(j) (1) Any party authorized to make medical decisions for a patient or client, including, but not limited to, those authorized by Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section 6550), Chapter 2 (commencing with Section 6910) of Part 4, or Chapter 1 (commencing with Section 7000) of Part 6, of Division 11 of, the Family Code, Section 1530.6 of the Health and Safety Code, or Sections 727 and 1755.3 of, and Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, may permit sharing of the patient's or client's record with any of the immunization information systems authorized by this section.

(2) For a patient or client who is a dependent of a juvenile court, the court or a person or agency designated by the court may permit this recordsharing.

(3) For a patient or client receiving foster care, a person or persons licensed to provide residential foster care, or having legal custody, may permit this recordsharing.

(k) For purposes of supporting immunization information systems, the State Department of Health Services shall assist the Immunization Branch of the State Department of Health Services in both of the following:

(1) The provision of department records containing information about publicly funded immunizations.

(2) Supporting efforts for the reporting of publicly funded immunizations into immunization information systems by health care providers and health care plans.

(*l*) Subject to any other provisions of state and federal law or regulation that limit the disclosure of health information and protect the privacy and confidentiality of personal information, local health departments and the State Department of Health Services may share the information listed in subdivision (c) with a state, local health departments, health care providers, immunization information systems, or any representative of an entity designated by federal or state law or regulation to receive this information. The State Department of Health Services may enter into written agreements to exchange confidential immunization information with other states for the purposes of patient care, protecting the public health, entrance into school, child care and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). The written agreement shall provide that the state that receives confidential immunization information must maintain its

confidentiality and may only use it for purposes of patient care, protecting the public health, entrance into school, child care and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). Information may not be shared pursuant to this subdivision if a patient or client, or parent or guardian of a patient or client, refuses to allow the sharing of immunization information pursuant to subdivision (e).

SEC. 2. Section 120476 is added to the Health and Safety Code, to read:

120476. The department shall submit to the Legislature, by January 31, 2008, a sustainability plan for full funding of a statewide immunization information system that integrates existing immunization systems throughout the state. The plan shall demonstrate how the department will fully populate and sustain the statewide immunization information system over time.

CHAPTER 330

An act to add Section 14132.74 to the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. This act shall be known and may be cited as the Nick Snow Children's Hospice and Palliative Care Act of 2006.

SEC. 2. Section 14132.74 is added to the Welfare and Institutions Code, to read:

14132.74. (a) The department, in consultation with interested stakeholders, shall develop, as a pilot project, a pediatric palliative care benefit to evaluate whether, and to what extent, such a benefit should be offered under the Medi-Cal program. The pilot project shall be implemented only to the extent that federal financial participation is available.

(b) Beneficiaries eligible to receive the pediatric palliative care benefit shall be under 21 years of age. The department may further limit the population served by the pilot project to a size deemed sufficient to make the evaluation required pursuant to subdivision (a).

(c) Services covered under the pediatric palliative care benefit shall be designed to meet the unique needs of children, and shall include those

types of services that are available through the Medi-Cal hospice benefit. The benefit shall also include the following services, regardless of whether those services are covered under the Medi-Cal hospice benefit:

(1) Hospice services that are provided at the same time that curative treatment is available, to the extent that the services are not duplicative.

(2) Hospice services provided to individuals whose conditions may result in death, regardless of the estimated length of the individual's remaining period of life.

(3) Any other services that the department determines to be appropriate.

(d) The department, in consultation with interested stakeholders, shall determine the medical conditions and prognoses that render a beneficiary eligible for the benefit.

(e) Providers authorized to provide services under the pilot program shall include licensed hospice agencies and home health agencies licensed to provide hospice care, subject to criteria developed by the department for provider participation.

(f) (1) The department shall submit any necessary application to the federal Centers for Medicare and Medicaid Services for a waiver to implement the pilot project described in this section. The department shall determine the form of waiver most appropriate to achieve the purposes of this section. The waiver request shall be included in any waiver application submitted within 12 months after the effective date of this section, or shall be submitted as an independent application within that time period. After federal approval is secured, the department shall implement the waiver within 12 months of the date of approval.

(2) The waiver shall be designed to cover a period of time necessary to evaluate the medical necessity for, and cost-effectiveness of, a pediatric palliative care benefit. The results of the pilot project shall be made available to the Legislature and appropriate policy and fiscal committees to determine the effectiveness of the benefit.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section by means of provider bulletins or similar instructions, without the adoption of regulations. The department shall notify the fiscal and appropriate policy committees of the Legislature of its intent to issue a provider bulletin or other similar instruction at least five days prior to issuance.

(h) (1) Nothing in this section shall result in the elimination or reduction of any covered benefits or services under the Medi-Cal program or the California Children's Services Program.

(2) This section shall not affect an individual's eligibility to receive, concurrently with the benefit provided for in this section, any services,

including home health services, for which the individual would have been eligible in the absence of this section.

SEC. 3. There is hereby appropriated the sum of seventy-five thousand dollars ($75,000) from the General Fund to the State Department of Health Services for expenditure for the purposes of developing and implementing a pilot project, as provided for in Section 14132.74 of the Welfare and Institutions Code, to evaluate whether, and to what extent, a pediatric palliative care benefit should be offered under the Medi-Cal program. These funds may be used to fund staff positions to execute, plan, manage, develop, and implement the pilot project.

CHAPTER 331

An act to amend Section 12693.325 of the Insurance Code, relating to health care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. Section 12693.325 of the Insurance Code is amended to read:

12693.325. (a) (1) Notwithstanding any provision of this chapter, a participating health, dental, or vision plan that is licensed and in good standing as required by subdivision (b) of Section 12693.36 may provide application assistance directly to an applicant acting on behalf of an eligible person who telephones, writes, or contacts the plan in person at the plan's place of business, or at a community public awareness event that is open to all participating plans in the county, or at any other site approved by the board, and who requests application assistance.

(2) A participating health, dental, or vision plan may also provide application assistance directly to an applicant only under the following conditions:

(A) The assistance is provided upon referral from a government agency, school, or school district.

(B) The applicant has authorized the government agency, school, or school district to allow a health, dental, or vision plan to contact the applicant with additional information on enrolling in free or low-cost health care.

(C) The State Department of Health Services approves the applicant authorization form in consultation with the board.

(D) The plan may not actively solicit referrals and may not provide compensation for the referrals.

(E) If a family is already enrolled in a health plan, the plan that contacts the family cannot encourage the family to change health plans.

(F) The board amends its marketing guidelines to require that when a government agency, school, or school district requests assistance from a participating health, dental, or vision plan to provide application assistance, that all plans in the area shall be invited to participate.

(G) The plan abides by the board's marketing guidelines.

(b) A participating health, dental, or vision plan may provide application assistance to an applicant who is acting on behalf of an eligible or potentially eligible child in any of the following situations:

(1) The child is enrolled in a Medi-Cal managed care plan and the participating plan becomes aware that the child's eligibility status has or will change and that the child will no longer be eligible for Medi-Cal. In those instances, the plan shall inform the applicant of the differences in benefits and requirements between the Healthy Families Program and the Medi-Cal program.

(2) The child is enrolled in a Healthy Families Program managed care plan and the participating plan becomes aware that the child's eligibility status has changed or will change and that the child will no longer be eligible for the Healthy Families Program. When it appears a child may be eligible for Medi-Cal benefits, the plan shall inform the applicant of the differences in benefits and requirements between the Medi-Cal program and the Healthy Families Program.

(3) The participating plan provides employer-sponsored coverage through an employer and an employee of that employer who is the parent or legal guardian of the eligible or potentially eligible child.

(4) The child and his or her family are participating through the participating plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(5) The child's family, but not the child, is participating through the participating plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law, and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(c) A participating health, dental, or vision plan employee or other representative that provides application assistance shall complete a certified application assistant training class approved by the State

Department of Health Services in consultation with the board. The employee or other representative shall in all cases inform an applicant verbally of his or her relationship with the participating health plan. In the case of an in-person contact, the employee or other representative shall provide in writing to the applicant the nature of his or her relationship with the participating health plan and obtain written acknowledgment from the applicant that the information was provided.

(d) A participating health, dental, or vision plan that provides application assistance may not do any of the following:

(1) Directly, indirectly, or through its agents, conduct door-to-door marketing or telephone solicitation.

(2) Directly, indirectly, or through its agents, select a health plan or provider for a potential applicant. Instead, the plan shall inform a potential applicant of the choice of plans available within the applicant's county of residence and specifically name those plans and provide the most recent version of the program handbook.

(3) Directly, indirectly, or through its agents, conduct mail or in-person solicitation of applicants for enrollment, except as specified in subdivision (b), using materials approved by the board.

(e) A participating health, dental, or vision plan that provides application assistance pursuant to this section is not eligible for an application assistance fee otherwise available pursuant to Section 12693.32, and may not sponsor a person eligible for the program by paying his or her family contribution amounts or copayments, and may not offer applicants any inducements to enroll, including, but not limited to, gifts or monetary payments.

(f) A participating health, dental, or vision plan may assist applicants acting on behalf of subscribers who are enrolled with the participating plan in completing the program's annual eligibility review package in order to allow those applicants to retain health care coverage.

(g) Each participating health, dental, or vision plan shall submit to the board a plan for application assistance. All scripts and materials to be used during application assistance sessions shall be approved by the board and the State Department of Health Services.

(h) Each participating health, dental, or vision plan shall provide each applicant with the toll-free telephone number for the Healthy Families Program.

(i) When deemed appropriate by the board, the board may refer a participating health, dental, or vision plan to the Department of Managed Health Care or the State Department of Health Services, as applicable, for the review or investigation of its application assistance practices.

(j) The board shall evaluate the impact of the changes required by this section and shall provide a biennial report to the Legislature on or

before March 1 of every other year. To prepare these reports, the State Department of Health Services, in cooperation with the board, shall code all the application packets used by a managed care plan to record the number of applications received that originated from managed care plans. The number of applications received that originated from managed care plans shall also be reported on the board's Web site. In addition, the board shall periodically survey those families assisted by plans to determine if the plans are meeting the requirements of this section, and if families are being given ample information about the choice of health, dental, or vision plans available to them.

(k) Nothing in this section shall be seen as mitigating a participating health, dental, or vision plan's responsibility to comply with all federal and state laws, including, but not limited to, Section 1320a-7b of Title 42 of the United States Code.

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 enable participating health, dental, or vision plans to provide application assistance to applicants under the Healthy Families Program as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 332

An act to add Section 14011.75 to the Welfare and Institutions Code, relating to child health.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. Section 14011.75 is added to the Welfare and Institutions Code, to read:

14011.75. (a) The department shall conduct, or contract for the conducting of, a feasibility study report of technological requirements for modifying the electronic application authorized pursuant to Section 14011.7, known as the CHDP Gateway, to allow a person applying on behalf of a child the option to simultaneously preenroll and apply for enrollment in the Medi-Cal program or the Healthy Families Program over the Internet without submitting a followup paper application pursuant to the criteria set forth in subdivision (c).

(b) The results of the feasibility study report shall be provided to the fiscal and health policy committees of the Legislature on or before March 1, 2008.

(c) (1) The modifications to the CHDP Gateway that shall be the subject of the feasibility study report of technological requirements under subdivision (a) shall allow an optional electronic application for enrollment to be submitted at the time of applying for preenrollment, so long as written consent to exercise the option is obtained.

(2) The optional electronic application developed for the purposes of this section shall comply with all of the following:

(A) Be the simplest permitted by federal law to achieve the purposes of this section, except that nothing in this section shall allow self-certification of income.

(B) Be adequate to constitute an application for medical assistance.

(C) Request only the information that is necessary to provide the child with continuing preliminary benefits within the meaning of subdivision (b) of Section 14011.8 until a final eligibility determination is made pursuant to the federal options described in Section 1396r-1a or Section 1397ee(1)(D) of Title 42 of the United States Code and to the extent federal financial participation is allowed.

(d) The department shall consult with representatives of consumers, counties, and medical providers in developing the policies and procedures for the modifications to the CHDP Gateway that shall be the subject of the feasibility study report of technological requirements under this section.

CHAPTER 333

An act to amend Section 14094.3 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. Section 14094.3 of the Welfare and Institutions Code is amended to read:

14094.3. (a) Notwithstanding this article or Section 14093.05 or 14094.1, CCS covered services shall not be incorporated into any Medi-Cal managed care contract entered into after August 1, 1994, pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8

(commencing with Section 14087.5), Article 2.9 (commencing with Section 14088), Article 2.91 (commencing with Section 14089), Article 2.95 (commencing with Section 14092); or either Article 2 (commencing with Section 14200), or Article 7 (commencing with Section 14490) of Chapter 8, until January 1, 2012, except for contracts entered into for county organized health systems or Regional Health Authority in the Counties of San Mateo, Santa Barbara, Solano, Yolo, Marin, and Napa.

(b) Notwithstanding any other provision of this chapter, providers serving children under the CCS program who are enrolled with a Medi-Cal managed care contractor but who are not enrolled in a pilot project pursuant to subdivision (c) shall continue to submit billing for CCS covered services on a fee-for-service basis until CCS covered services are incorporated into the Medi-Cal managed care contracts described in subdivision (a).

(c) (1) The department may authorize a pilot project in Solano County in which reimbursement for conditions eligible under the CCS program may be reimbursed on a capitated basis pursuant to Section 14093.05, and provided all CCS program's guidelines, standards, and regulations are adhered to, and CCS program's case management is utilized.

(2) During the time period described in subdivision (a), the department may approve, implement, and evaluate limited pilot projects under the CCS program to test alternative managed care models tailored to the special health care needs of children under the CCS program. The pilot projects may include, but need not be limited to, coverage of different geographic areas, focusing on certain subpopulations, and the employment of different payment and incentive models. Pilot project proposals from CCS program-approved providers shall be given preference. All pilot projects shall utilize CCS program-approved standards and providers pursuant to Section 14094.1.

(d) (1) The department shall submit to the appropriate committees of the Legislature an evaluation of pilot projects established pursuant to subdivision (c) based on at least one full year of operation.

(2) The evaluation required by paragraph (1) shall address the impact of the pilot projects on outcomes as set forth in paragraph (4) and, in addition, shall do both of the following:

(A) Examine the barriers, if any, to incorporating CCS covered services into the Medi-Cal managed care contracts described in subdivision (a).

(B) Compare different pilot project models with the fee-for-service system. The evaluation shall identify, to the extent possible, those factors that make pilot projects most effective in meeting the special needs of children with CCS eligible conditions.

(3) CCS covered services shall not be incorporated into the Medi-Cal managed care contracts described in subdivision (a) before the evaluation process has been completed.

(4) The pilot projects shall be evaluated to determine whether:

(A) All children enrolled with a Medi-Cal managed care contractor described in subdivision (a) identified as having a CCS eligible condition are referred in a timely fashion for appropriate health care.

(B) All children in the CCS program have access to coordinated care that includes primary care services in their own community.

(C) CCS program standards are adhered to.

(e) For purposes of this section, CCS covered services include all program benefits administered by the program specified in Section 123840 of the Health and Safety Code regardless of the funding source.

(f) Nothing in this section shall be construed to exclude or restrict CCS eligible children from enrollment with a managed care contractor, or from receiving from the managed care contractor with which they are enrolled primary and other health care unrelated to the treatment of the CCS eligible condition.

CHAPTER 334

An act to add Article 10 (commencing with Section 124174) to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, relating to child health.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. Article 10 (commencing with Section 124174) is added to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, to read:

Article 10. Public School Health Center Support Program

124174. The following definitions shall govern the construction of this article, unless the context requires otherwise:

(a) "Program" means a Public School Health Center Support Program.

(b) "School health center" means a center or program that provides age-appropriate health care services at the program site or through referrals, and may be located on at a local educational agency. A school

health center may serve two or more nonadjacent schools or local educational agencies.

(c) For purposes of this section "local educational agency" shall be defined as a school, school district, charter school, or county office of education if the county office of education serves students in kindergarten, or any grades from 1 to 12, inclusive.

124174.2. (a) The department, in cooperation with the State Department of Education, shall establish a Public School Health Center Support Program.

(b) The program, in collaboration with the State Department of Education, shall perform the following program functions:

(1) Provide technical assistance to school health centers on effective outreach and enrollment strategies to identify children who are eligible for, but not enrolled in, the Medi-Cal program, the Healthy Families Program, or any other applicable program.

(2) Serve as a liaison between organizations within the department, including, but not limited to, the Medi-Cal program, prevention services, primary care, and family health.

(3) Serve as a liaison between other state entities, as appropriate, including, but not limited to, the State Department of Mental Health, the State Department of Alcohol and Drug Programs, the Department of Managed Health Care, the Office of Emergency Services, and the Managed Risk Medical Insurance Board.

(4) Provide technical assistance to facilitate and encourage the establishment, retention, or expansion of, school health centers. For purposes of this paragraph, technical assistance may include, but is not limited to, identifying available public and private sources of funding, which may include federal Medicaid funds, funds from third-party reimbursements, and available federal or foundation grant moneys.

(c) The department shall consult with interested parties and appropriate stakeholders, including the California School Health Centers Association and representatives of youth and parents, in carrying out its responsibilities under this article.

124174.3. (a) The department shall establish standardized data collection procedures and collect data specified in subdivisions (c) and (d) from school health centers on an ongoing basis.

(b) The data collected pursuant to this section shall be submitted in a format determined by the department in accordance with applicable state and federal requirements for confidentiality and protected health information.

(c) Data collected pursuant to this section shall include the following:

(1) The name of the primary contact person, telephone numbers, including facsimile physical address, and the e-mail address, if applicable, for each school health center.

(2) The annual number of schoolage children receiving health services or mental health services from the school health center.

(3) The type and volume of services provided by the school health centers.

(4) The funding mechanisms used by the school health centers.

(5) Information on other programs offered by school health centers with an emphasis on preventative health services that address health issues unique to schoolage children, including, but not limited to, childhood obesity, asthma, immunizations against communicable diseases, and child and adolescent mental health disorders.

(d) To the extent feasible, the department shall collect data on health services provided at a local educational agency outside a school health center.

(e) This section shall be implemented only to the extent funds are appropriated for this purpose in the Budget Act or pursuant to the enactment of legislation subsequent to the addition of this section.

124174.4. The State Department of Education, in collaboration with the department, shall perform the following functions:

(a) Coordination of programs within the State Department of Education that support school health centers and programs within the State Department of Mental Health and the State Department of Alcohol and Drug Programs, where appropriate.

(b) The provision of technical assistance to facilitate and encourage the establishment, retention, and expansion of school health centers in public schools. For purposes of this subdivision, "technical assistance" may include the provision of information to local educational agencies and other entities regarding the utilization of facilities, liability insurance, cooperative agreements with community-based providers, and other issues pertinent to school health centers.

124174.5. (a) The program, in collaboration with the State Department of Education, shall act as a liaison for school-based health centers.

(b) Beginning on or before January 1, 2009, the program shall provide a biennial update to the appropriate policy and fiscal committees of the Legislature that includes information on all of the following:

(1) The number and geographical distribution of school health centers.

(2) The number of schoolage children who were served by school health centers.

(3) The type and volume of health and mental health services provided by school health centers.

(4) A description of state funds used by school health centers.

(5) A description of any obstacles to the financial sustainability of school health centers and any necessary policy changes that would address those financial obstacles.

(c) The department shall post on its Web site any written materials provided to the Legislature as part of the updates required by this section.

CHAPTER 335

An act to amend Sections 124116.5, 124118, 124118.5, and 124119 of the Health and Safety Code, relating to public health.

[Approved by Governor September 19, 2006. Filed with Secretary of State September 19, 2006.]

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

SECTION 1. Section 124116.5 of the Health and Safety Code is amended to read:

124116.5. (a) (1) Every general acute care hospital with licensed perinatal services in this state shall administer to every newborn, upon birth admission a hearing screening test for the identification of hearing loss, using protocols approved by the department or its designee.

(2) In order to meet the department's certification criteria, a general acute care hospital shall be responsible for developing a screening program that provides competent hearing screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newborn's discharge from a newborn nursery unit, refers infants with abnormal screening results, maintains and reports data as required by the department, and provides physician and family-parent education.

(b) A hearing screening test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, licensed audiologist, or an appropriately trained individual who is supervised in the performance of the test by a licensed health care professional.

(c) Every general acute care hospital that has not been approved by the California Children Services (CCS) program and that has licensed perinatal services that provides care in less than 100 births annually shall, if it does not directly provide a hearing screening test, enter into an agreement with an outpatient infant hearing screening provider certified by the department to provide hearing screening tests.

(d) This section shall not apply to any newborn whose parent or guardian objects to the test on the grounds that the test is in violation of his or her beliefs.

SEC. 2. Section 124118 of the Health and Safety Code is amended to read:

124118. The department or its designee shall provide every general acute care hospital that has licensed perinatal services, or neonatal intensive care unit (NICU), as specified in Section 123975, written information on the current and most effective means available to screen the hearing of newborns and infants, and shall provide technical assistance and consultation to these hospitals in developing a system of screening each newborn and infant receiving care at the facility. The information shall also include the mechanism for referral of newborns and infants with abnormal test results.

SEC. 3. Section 124118.5 of the Health and Safety Code is amended to read:

124118.5. (a) The department shall establish a system of early hearing detection and intervention centers that shall provide technical assistance and consultation to hospitals in the startup and ongoing implementation of a facility hearing screening program and followup system.

(b) The early hearing detection and intervention centers shall be chosen by the department according to standards and criteria developed by the California Children's Services (CCS) program. Each center shall be responsible for a separate geographic catchment area as determined by the program.

(c) Each center shall be required to develop a system that shall provide outreach and education to hospitals in its catchment area, approve hospitals on behalf of the department for participation as newborn hearing screening providers, maintain a database of all newborns and infants screened in the catchment area, ensure appropriate followup for newborns and infants with an abnormal hearing screening, including diagnostic evaluation and referral to intervention services programs if the newborn or infant is found to have a hearing loss, and provide coordination with the CCS and local early intervention programs as defined in Title 14 (commencing with Section 95000) of the Government Code.

SEC. 4. Section 124119 of the Health and Safety Code is amended to read:

124119. (a) The department shall develop and implement a reporting and tracking system for newborns and infants tested for hearing loss.

(b) The system shall provide the department with information and data to effectively plan, establish, monitor, and evaluate the Newborn and Infant Hearing Screening, Tracking and Intervention Program,

including the screening and followup components, as well as the comprehensive system of services for newborns and infants who are deaf or hard-of-hearing and their families.

(c) Every general acute care hospital with licensed perinatal services, or NICU in this state shall report to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.

(d) All providers of audiological followup and diagnostic services provided under this article shall report to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.

(e) The information compiled and maintained in the tracking system shall be kept confidential in accordance with Chapter 5 (commencing with Section 10850) of Part 1 of Division 9 of the Welfare and Institutions Code, the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and the applicable requirements and provisions of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

(f) Data collected by the tracking system obtained directly from the medical records of the newborn or infant shall be for the confidential use of the department and for the persons or public or private entities that the department determines are necessary to carry out the intent of the reporting and tracking system.

(g) A health facility, clinical laboratory, audiologist, physician, registered nurse, or any other officer or employee of a health facility or laboratory or employee of an audiologist or physician, shall not be criminally or civilly liable for furnishing information to the department or its designee pursuant to the requirements of this section.

SEC. 5. Sections 1 to 4, inclusive, of this act shall become operative on January 1, 2008.

CHAPTER 336

An act to amend Sections 1202.8 and 3004 of, and to add Sections 290.04, 290.05, and 290.06 to, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 290.04 is added to the Penal Code, to read:

290.04. (a) (1) The sex offender risk assessment tools authorized by this section for use with selected populations shall be known, with respect to each population, as the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). If a SARATSO has not been selected for a given population pursuant to this section, no duty to administer the SARATSO elsewhere in this code shall apply with respect to that population. Every person required to register as a sex offender shall be subject to assessment with the SARATSO as set forth in this section and elsewhere in this code.

(2) A representative of the Department of Corrections and Rehabilitation, in consultation with a representative of the Department of Mental Health and a representative of the Attorney General's office, shall comprise the SARATSO Review Committee. The purpose of the committee shall be to ensure that the SARATSO reflects the most reliable, objective and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated with multiple cross-validations, and is widely accepted by the courts. The committee shall consult with experts in the fields of risk assessment and the use of actuarial instruments in predicting sex offender risk, sex offending, sex offender treatment, mental health, and law, as it deems appropriate.

(b) (1) Commencing January 1, 2007, the SARATSO for adult males required to register as sex offenders shall be the STATIC-99 risk assessment scale.

(2) On or before January 1, 2008, the SARATSO Review Committee shall determine whether the STATIC-99 should be supplemented with an actuarial instrument that measures dynamic risk factors or whether the STATIC-99 should be replaced as the SARATSO with a different risk assessment tool. If the committee unanimously agrees on changes to be made to the SARATSO, it shall advise the Governor and the Legislature of the changes, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult males.

(c) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for females required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's

Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for females.

(d) On or before January 1, 2007, the SARATSO Review Committee shall research risk assessment tools for juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for juveniles.

(e) The committee shall periodically evaluate the SARATSO for each specified population. If the committee unanimously agrees on a change to the SARATSO for any population, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for that population.

(f) The committee shall perform other functions as necessary to carry out the provisions of this act or as may be otherwise required by law. The committee shall be immune from liability for good faith conduct under this act.

SEC. 2. Section 290.05 is added to the Penal Code, to read:

290.05. (a) On or before January 1, 2008, the SARATSO Review Committee established pursuant to Section 290.04, in consultation with probation officers and parole officers, shall develop a training program for probation officers, parole officers, local law enforcement personnel, and any other persons authorized by this code to administer the SARATSO, as set forth in Section 290.04. The Department of Corrections and Rehabilitation shall be responsible for overseeing the training, which shall be conducted by experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk. Subject to requirements promulgated by the committee, probation departments, regional parole officers, and local law enforcement agencies shall designate key persons within their organizations to attend training and, as authorized by the department, to train others within their organizations designated to perform risk assessments as required or authorized by law. Any person who administers the SARATSO shall receive training no less frequently than every two years.

(b) The SARATSO may be performed for purposes authorized by statute only by persons trained pursuant to this section.

SEC. 3. Section 290.06 is added to the Penal Code, to read:

290.06. Effective on or before July 1, 2008, the SARATSO, as set forth in Section 290.04, shall be administered as follows:

(a) (1) The Department of Corrections and Rehabilitation shall assess every eligible person who is incarcerated in state prison. The assessment shall take place at least four months, but no sooner than 10 months, prior to release from incarceration.

(2) The department shall assess every eligible person who is on parole. The assessment shall take place at least four months, but no sooner than 10 months, prior to termination of parole.

(3) The Department of Mental Health shall assess every eligible person who is committed to that department. The assessment shall take place at least four months, but no sooner than 10 months, prior to release from commitment.

(4) Each probation department shall assess every eligible person for whom it prepares a report pursuant to Section 1203.

(5) Each probation department shall assess every eligible person under its supervision who was not assessed pursuant to paragraph (4). The assessment shall take place prior to the termination of probation, but no later than January 1, 2010.

(b) If a person required to be assessed pursuant to subdivision (a) was assessed pursuant to that subdivision within the previous five years, a reassessment is permissible but not required.

(c) The SARATSO Review Committee established pursuant to Section 290.04, in consultation with probation officers and local law enforcement agencies, shall establish a plan and a schedule for assessing eligible persons not assessed pursuant to subdivision (a). The plan shall provide for adult males to be assessed on or before January 1, 2012, and for females and juveniles to be assessed on or before January 1, 2013, and it shall give priority to assessing those persons most recently convicted of an offense requiring registration as a sex offender. On or before January 15, 2008, the committee shall introduce legislation to implement the plan.

(d) On or before January 1, 2008, the SARATSO Review Committee shall research the appropriateness and feasibility of providing a means by which an eligible person subject to assessment may, at his or her own expense, be assessed with the SARATSO by a governmental entity prior to his or her scheduled assessment. If the committee unanimously agrees that such a process is appropriate and feasible, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the established process shall become effective.

(e) For purposes of this section,"eligible person" means a person who was convicted of an offense that requires him or her to register as a sex

offender pursuant to Section 290 and who has not been assessed with the SARATSO within the previous five years.

SEC. 4. Section 1202.8 of the Penal Code is amended to read:

1202.8. (a) Persons placed on probation by a court shall be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

(b) Commencing July 1, 2008, every adult male who is convicted of an offense that requires him to register as a sex offender pursuant to Section 290 shall be assessed for the risk of reoffending consistent with Section 290.06. The assessment shall be performed by a probation officer who has been trained pursuant to Section 290.05. Every adult male who has a risk assessment of high shall be continuously electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology. Nothing in this section prohibits probation authorities from using electronic monitoring technology pursuant to any other provision of law.

(c) Within 30 days of a court making an order to provide restitution to a victim or to the Restitution Fund, the probation officer shall establish an account into which any restitution payments that are not deposited into the Restitution Fund shall be deposited.

(d) Beginning January 1, 2009, each probation department shall report every two years to the Legislature and to the Governor on the effectiveness of continuous electronic monitoring of offenders pursuant to subdivision (b). The report shall include the costs of monitoring and the recidivism rates of those persons who have been monitored.

SEC. 5. Section 3004 of the Penal Code is amended to read:

3004. (a) Notwithstanding any other law, the parole authority may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with all other conditions of parole. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the parolee and the agent supervising the parolee which is to be used solely for the purposes of voice identification.

(b) Notwithstanding subdivision (a), commencing July 1, 2008, every adult male who is convicted of an offense that requires him to register as a sex offender pursuant to Section 290 shall be assessed for the risk of reoffending consistent with Section 290.06. The assessment shall be performed by a parole officer who has been trained pursuant to Section

290.05. Every adult male who has a risk assessment of high shall be continuously electronically monitored while on parole, unless the department determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology. Nothing in this section prohibits parole authorities from using electronic monitoring technology pursuant to any other provision of law.

(c) Beginning January 1, 2009, and every two years thereafter, the Department of Corrections and Rehabilitation shall report to the Legislature and to the Governor on the effectiveness of continuous electronic monitoring of offenders pursuant to subdivision (b). The report shall include the costs of monitoring and the recidivism rates of those persons who have been monitored.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to protect public safety by ensuring that sex offenders are electronically monitored, it is necessary that this act take effect immediately.

CHAPTER 337

An act to amend Section 68152 of the Government Code, to amend Sections 209, 220, 269, 288.5, 290, 290.3, 290.46, 311.2, 311.4, 311.9, 311.11, 626.8, 647.6, 667.1, 667.5, 667.51, 667.6, 667.61, 667.71, 1170.125, 1192.7, 1203, 1203c, 1203.06, 1203.065, 1203.075, 3000, 3001, 3005, 12022.75, 13887, and 13887.1 of, to amend and renumber Section 653g of, to add Sections 288.3, 288.7, 290.03, 290.04, 290.05, 290.06, 290.07, 290.08, 626.81, 653c, 801.2, 1203e, 1203f, 3072, and 13887.5 to, and to add a heading to Chapter 5.5 (commencing with Section 290) to Title 9 of Part 2 of, the Penal Code, and to amend Sections 6600, 6601, 6604, 6604.1, and 6605 of the Welfare and Institutions Code, relating to sex offenders, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

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

SECTION 1. This act shall be known as the Sex Offender Punishment, Control, and Containment Act of 2006.

SEC. 2. The Legislature finds and declares all of the following:

(a) The primary public policy goal of managing sex offenders in the community is the prevention of future victimization.

(b) California's tactics for monitoring registered sex offenders must be transformed into a cohesive and comprehensive system of state and local law enforcement supervision to observe, assess, and proactively respond to patterns and conduct of registered sex offenders in the community.

(c) California's infrastructure for collecting, maintaining, and disseminating information about registered sex offenders must be retooled to ensure that law enforcement and the public have access to accurate, up-to-date, and relevant information about registered sex offenders.

(d) In order to accomplish these goals, the Legislature hereby enacts the Sex Offender Control and Containment Act of 2006.

SEC. 3. Section 68152 of the Government Code is amended to read:

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

(a) Adoption: retain permanently.

(b) Change of name: retain permanently.

(c) Other civil actions and proceedings, as follows:

(1) Except as otherwise specified: 10 years.

(2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.

(3) Domestic violence: same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.

(4) Eminent domain: retain permanently.

(5) Family law, except as otherwise specified: 30 years.

(6) Harassment: same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.

(7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.

(8) Paternity: retain permanently.

(9) Petition, except as otherwise specified: 10 years.

(10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.

(11) Small claims: 10 years.

(12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.

(d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:

(1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.

(2) Voluntarily dismissed by a party without entry of judgment: one year.

Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.

(e) Criminal.

(1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.

(2) Felony, except as otherwise specified: 75 years.

(3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.

(4) Misdemeanor, except as otherwise specified: five years.

(5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.

(6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: 10 years.

(7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.

(8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.

(9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956,

inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.

(10) Infraction, except as otherwise specified: three years.

(11) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.

(12) Misdemeanor action resulting in a requirement that the defendant register as a sex offender pursuant to Section 290 of the Penal Code: 75 years. This paragraph shall apply to records relating to a person convicted on or after the effective date of Senate Bill 1128 of the 2005–06 Regular Session.

(f) Habeas corpus: same period as period for retention of the records in the underlying case category.

(g) Juvenile.

(1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.

(2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.

(5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.

(h) Probate.

(1) Conservatorship: 10 years after decree of termination.

(2) Guardianship: 10 years after the age of 18.

(3) Probate, including probated wills, except as otherwise specified: retain permanently.

(i) Court records of the appellate division of the superior court: five years.

(j) Other records.

(1) Applications in forma pauperis: any time after the disposition of the underlying case.

(2) Arrest warrant: same period as period for retention of the records in the underlying case category.

(3) Bench warrant: same period as period for retention of the records in the underlying case category.

(4) Bond: three years after exoneration and release.

(5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.

(6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.

(7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.

(8) Electronic recordings made as the official record of the oral proceedings under the California Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.

(9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.

(10) Index, except as otherwise specified: retain permanently.

(11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.

(12) Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case: retain permanently.

(13) Judgments in misdemeanor cases, infraction cases, and limited civil cases: same period as period for retention of the records in the underlying case category.

(14) Minutes: same period as period for retention of the records in the underlying case category.

(15) Naturalization index: retain permanently.

(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.

(17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.

(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.

(k) Retention of any of the court records under this section shall be extended as follows:

(1) By order of the court on its own motion, or on application of a party or any interested member of the public for good cause shown and on those terms as are just. A fee shall not be charged for making the application.

(2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

SEC. 4. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any of those acts, is guilty of a felony. Upon conviction thereof, he or she shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any of those acts suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole if the victim does not suffer death or bodily harm.

(b) (1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or any violation of Section 264.1, 288, or 289, shall be punished by imprisonment in the state prison for life with the possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the

risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) shall not be construed to supersede or affect Section 667.61. A person may be charged with a violation of subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.

SEC. 5. Section 220 of the Penal Code is amended to read:

220. (a) Except as provided in subdivision (b), any person who assaults another with intent to commit mayhem, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 shall be punished by imprisonment in the state prison for two, four, or six years.

(b) Any person who, in the commission of a burglary of the first degree, as defined in subdivision (a) of Section 460, assaults another with the intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 shall be punished by imprisonment in the state prison for life with the possibility of parole.

SEC. 6. Section 269 of the Penal Code is amended to read:

269. (a) Any person who commits any of the following acts upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Rape or sexual penetration, in concert, in violation of Section 264.1.

(3) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(4) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(5) Sexual penetration, in violation of subdivision (a) of Section 289.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life.

(c) The court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions, as defined in subdivision (d) of Section 667.6.

SEC. 7. Section 288.3 is added to the Penal Code, to read:

288.3. (a) (1) Every person who, motivated by an unnatural or abnormal sexual interest in children, arranges a meeting with a minor or a person he or she believes to be a minor for the purpose of exposing his or her genitals or pubic or rectal area, having the child expose his or her genitals or pubic or rectal area, or engaging in lewd or lascivious behavior, shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(2) Every person who violates this subdivision after a prior conviction for an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290 shall be punished by imprisonment in the state prison.

(b) Every person described in paragraph (1) of subdivision (a) who goes to the arranged meeting place at or about the arranged time, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

SEC. 8. Section 288.5 of the Penal Code is amended to read:

288.5. (a) Any person who either resides in the same home with the minor child or has recurring access to the child, who over a period of time, not less than three months in duration, engages in three or more acts of substantial sexual conduct with a child under the age of 14 years at the time of the commission of the offense, as defined in subdivision (b) of Section 1203.066, or three or more acts of lewd or lascivious conduct, as defined in Section 288, with a child under the age of 14 years at the time of the commission of the offense is guilty of the offense of continuous sexual abuse of a child and shall be punished by imprisonment in the state prison for a term of 6, 12, or 16 years.

(b) To convict under this section the trier of fact, if a jury, need unanimously agree only that the requisite number of acts occurred not on which acts constitute the requisite number.

(c) No other act of substantial sexual conduct, as defined in subdivision (b) of Section 1203.066, with a child under 14 years of age at the time of the commission of the offenses, or lewd and lascivious acts, as defined in Section 288, involving the same victim may be charged in the same proceeding with a charge under this section unless the other charged offense occurred outside the time period charged under this section or the other offense is charged in the alternative. A defendant may be charged with only one count under this section unless more than one victim is involved in which case a separate count may be charged for each victim.

SEC. 9. Section 288.7 is added to the Penal Code, to read:

288.7. (a) Any person 18 years of age or older who engages in sexual intercourse or sodomy with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 25 years to life.

(b) Any person 18 years of age or older who engages in oral copulation or sexual penetration, as defined in Section 289, with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 15 years to life.

SEC. 10. The heading of Chapter 5.5 (commencing with Section 290) is added to Title 9 of Part 2 of the Penal Code, to read:

CHAPTER 5.5. SEX OFFENDERS

SEC. 11. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides.

(B) If the person who is registering has more than one residence address at which he or she regularly resides, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides, regardless of the number of days or nights spent there. If all of the addresses are within the same jurisdiction, the person shall provide the registering authority with all of the addresses where he or she regularly resides.

(C) Every person described in paragraph (2), for the rest of his or her life while living as a transient in California shall be required to register, as follows:

(i) A transient must register, or reregister if the person has previously registered, within five working days from release from incarceration, placement or commitment, or release on probation, pursuant to paragraph (1) of subdivision (a), except that if the person previously registered as a transient less than 30 days from the date of his or her release from incarceration, he or she does not need to reregister as a transient until his or her next required 30-day update of registration. If a transient is

not physically present in any one jurisdiction for five consecutive working days, he or she must register in the jurisdiction in which he or she is physically present on the fifth working day following release, pursuant to paragraph (1) of subdivision (a). Beginning on or before the 30th day following initial registration upon release, a transient must reregister no less than once every 30 days thereafter. A transient shall register with the chief of police of the city in which he or she is physically present within that 30-day period, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, and additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is physically present upon the campus or in any of its facilities. A transient must reregister no less than once every 30 days regardless of the length of time he or she has been physically present in the particular jurisdiction in which he or she reregisters. If a transient fails to reregister within any 30-day period, he or she may be prosecuted in any jurisdiction in which he or she is physically present.

(ii) A transient who moves to a residence shall have five working days within which to register at that address, in accordance with subparagraph (A) of paragraph (1) of subdivision (a). A person registered at a residence address in accordance with subparagraph (A) of paragraph (1) of subdivision (a), who becomes transient shall have five working days within which to reregister as a transient in accordance with clause (i).

(iii) Beginning on his or her first birthday following registration, a transient shall register annually, within five working days of his or her birthday, to update his or her registration with the entities described in clause (i). A transient shall register in whichever jurisdiction he or she is physically present on that date. At the 30-day updates and the annual update, a transient shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e), and the information specified in clause (iv).

(iv) A transient shall, upon registration and reregistration, provide current information as required on the Department of Justice registration forms, and shall also list the places where he or she sleeps, eats, works, frequents, and engages in leisure activities. If a transient changes or adds to the places listed on the form during the 30-day period, he or she does not need to report the new place or places until the next required reregistration.

(v) Failure to comply with the requirement of reregistering every 30 days following initial registration pursuant to clause (i) of this subparagraph shall be punished in accordance with paragraph (6) of

subdivision (g). Failure to comply with any other requirement of this section shall be punished in accordance with either paragraph (1) or (2) of subdivision (g).

(vi) A transient who moves out of state shall inform, in person, the chief of police in the city in which he or she is physically present, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, within five working days, of his or her move out of state. The transient shall inform that registering agency of his or her planned destination, residence or transient location out of state, and any plans he or she has to return to California, if known. The law enforcement agency shall, within three days after receipt of this information, forward a copy of the change of location information to the Department of Justice. The department shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence or location.

(vii) For purposes of this section, "transient" means a person who has no residence. "Residence" means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

(viii) The transient registrant's duty to update his or her registration no less than every 30 days shall begin with his or her second transient update following the date this subdivision became effective.

(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e).

(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN). The registering agency shall give the registrant a copy

of the completed Department of Justice form each time the person registers or reregisters, including at the annual update.

(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000. The terms "employed or carries on a vocation" include employment whether or not financially compensated, volunteered, or performed for government or educational benefit.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.5, 288.7, or 289, Section 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter

convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(D) (i) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A), including offenses in which the person was a principal, as defined in Section 31.

(ii) Any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(iii) (I) Except as provided in subclause (II), any person who would be required to register while residing in the state of conviction for a sex offense committed in that state.

(II) Notwithstanding subclause (I), a person convicted in another state of an offense similar to one of the following offenses who is required to register in the state of conviction shall not be required to register in California unless the out-of-state offense contains all of the elements of a registerable California offense described in subparagraph (A):

(aa) Indecent exposure, pursuant to Section 314.

(ab) Unlawful sexual intercourse, pursuant to Section 261.5.

(ac) Incest, pursuant to Section 285.

(ad) Sodomy, pursuant to Section 286, or oral copulation, pursuant to Section 288a, provided that the offender notifies the Department of Justice that the sodomy or oral copulation conviction was for conduct between consenting adults, as described in subparagraph (G) and the department is able, upon the exercise of reasonable diligence, to verify that fact.

(ae) Pimping, pursuant to Section 266h, or pandering, pursuant to Section 266i.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(F) Any person required to register pursuant to any provision of this section, regardless of whether the person's conviction has been dismissed pursuant to Section 1203.4, unless the person obtains a certificate of rehabilitation and is entitled to relief from registration pursuant to Section 290.5.

(G) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, that demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence

submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official shall at the same time forward a current photograph of the person to the Department of Justice.

(2) The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the

person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement or hospital shall retain one copy.

(c) (1) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation, shall, prior to release or discharge, be informed of the duty to register under this section by the probation department, and a probation officer shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The probation officer shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The probation officer shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(2) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is granted conditional release without supervised probation, or discharged upon payment of a fine, shall, prior to release or discharge, be informed of the duty to register under this section in open court by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. If the court finds that it is in the interest of the efficiency of the court, the court may assign the bailiff to require the person to read and sign forms under this section. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of Corrections and Rehabilitation to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to Section 602 of the Welfare and

Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who is discharged or paroled from a facility in another state that is equivalent to the Division of Juvenile Justice, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the Department of Corrections and Rehabilitation, any person who is subject to registration under this subdivision shall be informed of the duty to register under the procedures set forth in this section. Department officials shall transmit the required forms and information to the Department of Justice.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of all of the following:

(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.

(B) The fingerprints and a current photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to paragraph (1) of subdivision (a). This paragraph shall not apply to a person who is incarcerated for less than 30 days if he or she has registered as required by paragraph (1) of subdivision (a), he or she returns after incarceration to the last registered address, and the annual update of registration that is required to occur within five working days of his or her birthday, pursuant to subparagraph (D) of paragraph (1) of subdivision (a), did not fall within that incarceration period. The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(B) The fingerprints and a current photograph of the person taken by the registering official.

(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.

(3) Within three days thereafter, the preregistering official or the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) (1) (A) Any person who was last registered at a residence address pursuant to this section who changes his or her residence address, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, shall, in person, within five working days of the move, inform the law enforcement agency or agencies with which he or she last registered of the move, the new address or transient location, if known, and any plans he or she has to return to California.

(B) If the person does not know the new residence address or location at the time of the move, the registrant shall, in person, within five working days of the move, inform the last registering agency or agencies that he or she is moving. The person shall later notify the last registering agency or agencies, in writing, sent by certified or registered mail, of the new address or location within five working days of moving into the new residence address or location, whether temporary or permanent.

(C) The law enforcement agency or agencies shall, within three working days after receipt of this information, forward a copy of the change of address information to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(2) If the person's new address is in a Department of Corrections and Rehabilitation facility or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a department facility or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three working days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraphs (5), (7), and (9), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(4) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(5) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required

pursuant to subparagraph (E) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) Except as otherwise provided in paragraph (5), any person who is required to register or reregister pursuant to clause (i) of subparagraph (C) of paragraph (1) of subdivision (a) and willfully fails to comply with the requirement that he or she reregister no less than every 30 days is guilty of a misdemeanor and shall be punished by imprisonment in a county jail at least 30 days, but not exceeding six months. A person who willfully fails to comply with the requirement that he or she reregister no less than every 30 days shall not be charged with this violation more often than once for a failure to register in any period of 90 days. Any person who willfully commits a third or subsequent violation of the requirements of subparagraph (C) of paragraph (1) of subdivision (a) that he or she reregister no less than every 30 days shall be punished in accordance with either paragraph (1) or (2) of this subdivision.

(7) Any person who fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense as to each requirement he or she violated.

(9) In addition to any other penalty imposed under this subdivision, the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is a crime punishable by imprisonment in a county jail for a period not exceeding one year.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as otherwise provided by law, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of

whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to 5 working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) The registration provisions of this section are applicable to every person described in this section, without regard to when his or her crime or crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before June 1, 2010, the Department of Justice shall renovate the VCIN to do the following:

(1) Correct all software deficiencies affecting data integrity and include designated data fields for all mandated sex offender data.

(2) Consolidate and simplify program logic, thereby increasing system performance and reducing system maintenance costs.

(3) Provide all necessary data storage, processing, and search capabilities.

(4) Provide law enforcement agencies with full Internet access to all sex offender data and photos.

(5) Incorporate a flexible design structure to readily meet future demands for enhanced system functionality, including public Internet access to sex offender information pursuant to Section 290.46.

SEC. 12. Section 290.03 is added to the Penal Code, to read:

290.03. (a) The Legislature finds and declares that a comprehensive system of risk assessment, supervision, monitoring and containment for registered sex offenders residing in California communities is necessary to enhance public safety and reduce the risk of recidivism posed by these offenders. The Legislature further affirms and incorporates the following findings and declarations, previously reflected in its enactment of "Megan's Law":

(1) Sex offenders pose a potentially high risk of committing further sex offenses after release from incarceration or commitment, and the protection of the public from reoffending by these offenders is a paramount public interest.

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of offenses involving unlawful sexual behavior collected pursuant to Sections 290 and 290.4 to allow members of the public to adequately protect themselves and their children from these persons.

(3) Persons convicted of these offenses involving unlawful sexual behavior have a reduced expectation of privacy because of the public's interest in public safety.

(4) In balancing the offenders' due process and other rights against the interests of public security, the Legislature finds that releasing information about sex offenders under the circumstances specified in the Sex Offender Punishment, Control, and Containment Act of 2006 will further the primary government interest of protecting vulnerable populations from potential harm.

(5) The registration of sex offenders, the public release of specified information about certain sex offenders pursuant to Sections 290 and 290.4, and public notice of the presence of certain high risk sex offenders in communities will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders.

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of sex offenders, for the public release of specified information regarding certain more serious sex offenders, and for community notification regarding high risk sex offenders who are about to be released from custody or who already reside in communities in this state. This policy of authorizing the release of necessary and relevant information about serious and high risk sex offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive.

(7) The Legislature also declares, however, that in making information available about certain sex offenders to the public, it does not intend that

the information be used to inflict retribution or additional punishment on any person convicted of a sex offense. While the Legislature is aware of the possibility of misuse, it finds that the dangers to the public of nondisclosure far outweigh the risk of possible misuse of the information. The Legislature is further aware of studies in Oregon and Washington indicating that community notification laws and public release of similar information in those states have resulted in little criminal misuse of the information and that the enhancement to public safety has been significant.

(b) In enacting the Sex Offender Punishment, Control, and Containment Act of 2006, the Legislature hereby creates a standardized, statewide system to identify, assess, monitor and contain known sex offenders for the purpose of reducing the risk of recidivism posed by these offenders, thereby protecting victims and potential victims from future harm.

SEC. 13. Section 290.04 is added to the Penal Code, to read:

290.04. (a) (1) The sex offender risk assessment tools authorized by this section for use with selected populations shall be known, with respect to each population, as the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). If a SARATSO has not been selected for a given population pursuant to this section, no duty to administer the SARATSO elsewhere in this code shall apply with respect to that population. Every person required to register as a sex offender shall be subject to assessment with the SARATSO as set forth in this section and elsewhere in this code.

(2) A representative of the State Department of Mental Health, in consultation with a representative of the Department of Corrections and Rehabilitation and a representative of the Attorney General's office, shall comprise the SARATSO Review Committee. The purpose of the committee, which shall be staffed by the State Department of Mental Health, shall be to ensure that the SARATSO reflects the most reliable, objective and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated with multiple cross-validations, and is widely accepted by the courts. The committee shall consult with experts in the fields of risk assessment and the use of actuarial instruments in predicting sex offender risk, sex offending, sex offender treatment, mental health, and law, as it deems appropriate.

(b) (1) Commencing January 1, 2007, the SARATSO for adult males required to register as sex offenders shall be the STATIC-99 risk assessment scale.

(2) On or before January 1, 2008, the SARATSO Review Committee shall determine whether the STATIC-99 should be supplemented with an actuarial instrument that measures dynamic risk factors or whether

the STATIC-99 should be replaced as the SARATSO with a different risk assessment tool. If the committee unanimously agrees on changes to be made to the SARATSO, it shall advise the Governor and the Legislature of the changes, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult males.

(c) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for females required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for females.

(d) On or before January 1, 2007, the SARATSO Review Committee shall research risk assessment tools for juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for juveniles.

(e) The committee shall periodically evaluate the SARATSO for each specified population. If the committee unanimously agrees on a change to the SARATSO for any population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for that population.

(f) The committee shall perform other functions consistent with the provisions of this act or as may be otherwise required by law, including, but not limited to, defining tiers of risk based on the SARATSO. The committee shall be immune from liability for good faith conduct under this act.

SEC. 14. Section 290.05 is added to the Penal Code, to read:

290.05. (a) On or before January 1, 2008, the SARATSO Review Committee established pursuant to Section 290.04, in consultation with the entities specified in subdivision (b), shall develop a training program for persons authorized by this code to administer the SARATSO, as set forth in Section 290.04.

(b) (1) The Department of Corrections and Rehabilitation shall be responsible for overseeing the training of persons who will administer

the SARATSO pursuant to paragraph (1) or (2) of subdivision (a) of Section 290.06.

(2) The State Department of Mental Health shall be responsible for overseeing the training of persons who will administer the SARATSO pursuant to paragraph (3) of subdivision (a) of Section 290.06.

(3) The Correction Standards Authority shall be responsible for developing standards for the training of persons who will administer the SARATSO pursuant to paragraph (4) or (5) of subdivision (a) of Section 290.06.

(4) The Commission on Peace Officer Standards and Training shall be responsible for developing standards for the training of persons who will administer the SARATSO pursuant to subdivision (c) of Section 290.06.

(c) The training shall be conducted by experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk. Subject to requirements established by the committee, the Department of Corrections and Rehabilitation, the State Department of Mental Health, probation departments, and authorized local law enforcement agencies shall designate key persons within their organizations to attend training and, as authorized by the department, to train others within their organizations designated to perform risk assessments as required or authorized by law. Any person who administers the SARATSO shall receive training no less frequently than every two years.

(d) The SARATSO may be performed for purposes authorized by statute only by persons trained pursuant to this section.

SEC. 15. Section 290.06 is added to the Penal Code, to read:

290.06. Effective on or before July 1, 2008, the SARATSO, as set forth in Section 290.04, shall be administered as follows:

(a) (1) The Department of Corrections and Rehabilitation shall assess every eligible person who is incarcerated in state prison. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to release from incarceration.

(2) The department shall assess every eligible person who is on parole. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to termination of parole.

(3) The Department of Mental Health shall assess every eligible person who is committed to that department. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to release from commitment.

(4) Each probation department shall assess every eligible person for whom it prepares a report pursuant to Section 1203.

(5) Each probation department shall assess every eligible person under its supervision who was not assessed pursuant to paragraph (4). The assessment shall take place prior to the termination of probation, but no later than January 1, 2010.

(b) If a person required to be assessed pursuant to subdivision (a) was assessed pursuant to that subdivision within the previous five years, a reassessment is permissible but not required.

(c) The SARATSO Review Committee established pursuant to Section 290.04, in consultation with local law enforcement agencies, shall establish a plan and a schedule for assessing eligible persons not assessed pursuant to subdivision (a). The plan shall provide for adult males to be assessed on or before January 1, 2012, and for females and juveniles to be assessed on or before January 1, 2013, and it shall give priority to assessing those persons most recently convicted of an offense requiring registration as a sex offender. On or before January 15, 2008, the committee shall introduce legislation to implement the plan.

(d) On or before January 1, 2008, the SARATSO Review Committee shall research the appropriateness and feasibility of providing a means by which an eligible person subject to assessment may, at his or her own expense, be assessed with the SARATSO by a governmental entity prior to his or her scheduled assessment. If the committee unanimously agrees that such a process is appropriate and feasible, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the established process shall become effective.

(e) For purposes of this section,"eligible person" means a person who was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290 and who has not been assessed with the SARATSO within the previous five years.

SEC. 16. Section 290.07 is added to the Penal Code, to read:

290.07. Notwithstanding any other provision of law, any person authorized by statute to administer the State Authorized Risk Assessment Tool for Sex Offenders and trained pursuant to Section 290.06 shall be granted access to all relevant records pertaining to a registered sex offender, including, but not limited to, criminal histories, sex offender registration records, police reports, probation and presentencing reports, judicial records and case files, juvenile records, psychological evaluations and psychiatric hospital reports, sexually violent predator treatment program reports, and records that have been sealed by the courts or the Department of Justice. Records and information obtained under this section shall not be subject to the California Public Records Act, Chapter

3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 17. Section 290.08 is added to the Penal Code, to read:

290.08. Every district attorney's office and the Department of Justice shall retain records relating to a person convicted of an offense for which registration is required pursuant to Section 290 for a period of 75 years after disposition of the case.

SEC. 18. Section 290.3 of the Penal Code, as amended by Chapter 69 of the Statutes of 2006, is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of three hundred dollars ($300) upon the first conviction or a fine of five hundred dollars ($500) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (a) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1), and 25 percent shall be transferred to the Department of Justice DNA Testing Fund, as provided in paragraph (2), and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (3).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be directed to the Department of Justice and transferred to the Department of Justice DNA Testing Fund, which is hereby created, for the exclusive purpose of testing DNA

samples for law enforcement purposes. The moneys in that fund shall be available for expenditure upon appropriation by the Legislature.

(3) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections and Rehabilitation may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (a) of Section 290 that results in incarceration in a facility under the jurisdiction of the department. All moneys collected by the department under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

(d) An amount equal to one hundred dollars ($100) for every fine imposed pursuant to subdivision (a) in excess of one hundred dollars ($100) shall be transferred to the Governor's Office of Emergency Services to fund SAFE teams pursuant to Chapter 9.7 (commencing with Section 13887) of Title 6 of Part 4.

SEC. 19. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English, as determined by the department.

(2) The Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of

all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

(F) Subdivision (c) or (d) of Section 286.

(G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(H) Subdivision (c) or (d) of Section 288a.

(I) Section 288.3, provided that the offense is a felony.

(J) Section 288.5.

(K) Section 288.7.

(L) Subdivision (a) or (j) of Section 289.

(M) Any person who has ever been adjudicated a sexually violent predator as defined in Section 6600 of the Welfare and Institutions Code.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of

an offense listed in paragraph (2) of subdivision (a) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 626.81.

(I) Section 647.6.

(J) Section 653c.

(K) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department

of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail

or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(*l*) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of

paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Web site, and any other resource that promotes public education about these offenders.

SEC. 19.5. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information

identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivision (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site. However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state or local facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of conviction and year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state or local facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state or local facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall provide the year of conviction and year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(iv) Any state or local facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register

shall advise the Department of Justice of that fact in a manner and format approved by the department.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

(F) Subdivision (c) or (d) of Section 286.

(G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(H) Subdivision (c) or (d) of Section 288a.

(I) Section 288.3, provided that the offense is a felony.

(J) Section 288.5.

(K) Section 288.7.

(L) Subdivision (a) or (j) of Section 289.

(M) Any person who has ever been adjudicated a sexually violent predator as defined in Section 6600 of the Welfare and Institutions Code.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of

an offense listed in paragraph (2) of subdivision (a) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 626.81.

(I) Section 647.6.

(J) Section 653c.

(K) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department

of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, provided the offense is a misdemeanor.

(C) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail

or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner that 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(*l*) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of

paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Web site, and any other resource that promotes public education about these offenders.

SEC. 20. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is for a first offense,

guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars ($100,000), in the absence of a finding that the defendant would be incapable of paying that fine, or by both that fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment, or by imprisonment in the state prison. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If

a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, do not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses, to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section does not apply to matter that depicts a legally emancipated child under the age of 18 years or to lawful conduct between spouses when one or both are under the age of 18 years.

(g) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or to perform related activities in providing telephone services.

SEC. 21. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment, or by imprisonment in the state prison. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals, is guilty of a felony. It is not necessary to prove commercial purposes in order to establish a violation of this subdivision.

(d) (1) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section

288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(2) As used in subdivisions (b) and (c), "matter" means any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, or any other computer-related equipment or computer-generated image that contains or incorporates in any manner, any film, filmstrip, photograph, negative, slide, photocopy, videotape, or video laser disc.

(e) This section does not apply to a legally emancipated minor or to lawful conduct between spouses if one or both are under the age of 18.

(f) In every prosecution under this section involving a minor under the age of 14 years at the time of the offense, the age of the victim shall be pled and proven for the purpose of the enhanced penalty provided in Section 647.6. Failure to plead and prove that the victim was under the age of 14 years at the time of the offense is not a bar to prosecution under this section if it is proven that the victim was under the age of 18 years at the time of the offense.

SEC. 22. Section 311.9 of the Penal Code is amended to read:

311.9. (a) Every person who violates subdivision (a) of Section 311.2 or Section 311.5 is punishable by fine of not more than one thousand dollars ($1,000) plus five dollars ($5) for each additional unit of material coming within the provisions of this chapter, which is involved in the offense, not to exceed ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than six months plus one day for each additional unit of material coming within the provisions of this chapter, and which is involved in the offense, not to exceed a total of 360 days in the county jail, or by both that fine and imprisonment. If that person has previously been convicted of any offense in this chapter, or of a violation of Section 313.1, a violation of subdivision (a) of Section 311.2 or Section 311.5 is punishable as a felony.

(b) Every person who violates subdivision (a) of Section 311.4 is punishable by fine of not more than two thousand dollars ($2,000) or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, or by imprisonment in the state prison. If that person has been previously convicted of a violation of former Section 311.3 or Section 311.4 he or she is punishable by imprisonment in the state prison.

(c) Every person who violates Section 311.7 is punishable by fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. For a second and subsequent offense he or she shall be

punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the person has been twice convicted of a violation of this chapter, a violation of Section 311.7 is punishable as a felony.

SEC. 23. Section 311.11 of the Penal Code is amended to read:

311.11. (a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years, knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a public offense and shall be punished by imprisonment in the county jail for up to one year, or by imprisonment in the state prison, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the fine and imprisonment.

(b) Any person who commits a violation of subdivision (a) and who has been previously convicted of a crime for which registration is required pursuant to Section 290, or any person who has ever been adjudicated as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, is guilty of a felony and shall be punished by imprisonment for two, four, or six years.

(c) It is not necessary to prove that the matter is obscene in order to establish a violation of this section.

(d) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

SEC. 24. Section 626.8 of the Penal Code is amended to read:

626.8. (a) Any person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and whose presence or acts interfere with the peaceful conduct of the activities of the school or disrupt the school or its pupils or school activities, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative official of that school or his or her designated representative, or by a person employed as a member of a security or police department of a

school district pursuant to Section 39670 of the Education Code, or a city police officer, or sheriff or deputy sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both the fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) As used in this section, the following definitions apply:

(1) "Lawful business" means a reason for being present upon school property which is not otherwise prohibited by statute, by ordinance, or by any regulation adopted pursuant to statute or ordinance.

(2) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same school year the defendant came into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and his or her presence or acts interfered with the peaceful conduct of the activities of the school or disrupted the school or its pupils or school activities, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) "School" means any preschool or school having any of grades kindergarten through 12.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the

person that if he or she reenters the place within seven days he or she will be guilty of a crime.

SEC. 25. Section 626.81 is added to the Penal Code, to read:

626.81. (a) Any person who is required to register as a sex offender pursuant to Section 290, who comes into any school building or upon any school ground without lawful business thereon and written permission from the chief administrative official of that school, is guilty of a misdemeanor.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction by a fine of not exceeding five hundred dollars ($500), by imprisonment in a county jail for a period of not more than six months, or by both the fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of this section, by imprisonment in a county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of this section, by imprisonment in a county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

SEC. 26. Section 647.6 of the Penal Code is amended to read:

647.6. (a) (1) Every person who annoys or molests any child under 18 years of age shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(2) Every person who, motivated by an unnatural or abnormal sexual interest in children, engages in conduct with an adult whom he or she believes to be a child under 18 years of age, which conduct, if directed toward a child under 18 years of age, would be a violation of this section, shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail for up to one year, or by both that fine and imprisonment.

(b) Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, shall be punished by imprisonment in the state prison, or in a

county jail not exceeding one year, and by a fine not exceeding five thousand dollars ($5,000).

(c) (1) Every person who violates this section shall be punished upon the second and each subsequent conviction by imprisonment in the state prison.

(2) Every person who violates this section after a previous felony conviction under Section 261, 264.1, 269, 285, 286, 288a, 288.5, or 289, any of which involved a minor under 16 years of age, or a previous felony conviction under this section, a conviction under Section 288, or a felony conviction under Section 311.4 involving a minor under 14 years of age shall be punished by imprisonment in the state prison for two, four, or six years.

(d) (1) In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

(2) In any case in which a person is convicted of violating this section, and as a condition of probation, the court prohibits the defendant from having contact with the victim, the court order prohibiting contact shall not be modified except upon the request of the victim and a finding by the court that the modification is in the best interest of the victim. As used in this paragraph, "contact with the victim" includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

(e) Nothing in this section prohibits prosecution under any other provision of law.

SEC. 27. Section 653g of the Penal Code is amended and renumbered to read:

653b. (a) Except as provided in subdivision (b), every person who loiters about any school or public place at or near which children attend or normally congregate and who remains at any school or public place at or near which children attend or normally congregate, or who reenters or comes upon a school or place within 72 hours, after being asked to leave by the chief administrative official of that school or, in the absence of the chief administrative official, the person acting as the chief administrative official, or by a member of the security patrol of the school district who has been given authorization, in writing, by the chief administrative official of that school to act as his or her agent in performing this duty, or a city police officer, or sheriff or deputy sheriff, or Department of the California Highway Patrol peace officer is a vagrant, and is punishable by a fine of not exceeding one thousand dollars

($1,000) or by imprisonment in the county jail for not exceeding six months, or by both the fine and the imprisonment.

(b) Every person required to register as a sex offender who violates subdivision (a) shall be punished as follows:

(1) Upon a first conviction, by a fine not exceeding two thousand ($2,000), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of this section or former Section 653g, by imprisonment in a county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding two thousand dollars ($2,000), and shall not be released on probation, parole, or any other basis until he or she has served at least 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of this section or former Section 653g, by imprisonment in a county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not exceeding two thousand dollars ($2,000), and shall not be released on probation, parole, or any other basis until he or she has served at least 90 days.

(c) As used in this section, "loiter" means to delay, to linger, or to idle about a school or public place without lawful business for being present.

(d) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

SEC. 28. Section 653c is added to the Penal Code, to read:

653c. (a) No person required to register as a sex offender pursuant to Section 290 for an offense committed against an elder or dependent adult, as defined in Section 368, other than a resident of the facility, shall enter or remain on the grounds of a day care or residential facility where elders or dependent adults are regularly present or living, without having registered with the facility administrator or his or her designees, except to proceed expeditiously to the office of the facility administrator or designee for the purpose of registering.

(b) In order to register pursuant to subdivision (a), a sex offender shall advise the facility administrator or designee that he or she is a sex offender; provide his or her name, address, and purpose for entering the facility; and provide proof of identity.

(c) The facility administrator may refuse to register, impose restrictions on registration, or revoke the registration of a sex offender if he or she has a reasonable basis for concluding that the offender's presence or acts would disrupt, or have disrupted, the facility, any resident, employee, volunteer, or visitor; would result, or has resulted, in damage to property; the offender's presence at the facility would

interfere, or has interfered, with the peaceful conduct of the activities of the facility; or would otherwise place at risk the facility, or any employee, volunteer or visitor.

(d) Punishment for any violation of this section shall be as follows:

(1) Upon a first conviction by a fine of not exceeding two thousand dollars ($2,000), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of this section, by imprisonment in a county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding two thousand dollars ($2,000), and shall not be released on probation, parole, or any other basis until he or she has served at least 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of this section, by imprisonment in a county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not exceeding two thousand dollars ($2,000), and shall not be released on probation, parole, or any other basis until he or she has served at least 90 days.

(e) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

SEC. 29. Section 667.1 of the Penal Code is amended to read:

667.1. Notwithstanding subdivision (h) of Section 667, for all offenses committed on or after the effective date of this act, all references to existing statutes in subdivisions (c) to (g), inclusive, of Section 667, are to those statutes as they existed on the effective date of this act, including amendments made to those statutes by the act enacted during the 2005–06 Regular Session that amended this section.

SEC. 30. Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a

one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(4) Sodomy, as defined in subdivision (c) or (d) of Section 286.

(5) Oral copulation, as defined in subdivision (c) or (d) of Section 288a.

(6) A lewd or lascivious act, as defined in subdivision (a) or (b) of Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration, as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 12308, 12309, or 12310.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole, whichever first occurs, including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health as a mentally disordered sex offender

following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Secretary of the Department of Corrections and Rehabilitation is incarcerated at a facility operated by the Division of Juvenile Facilities, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SEC. 31. Section 667.51 of the Penal Code is amended to read:

667.51. (a) Any person who is convicted of violating Section 288 or 288.5 shall receive a five-year enhancement for a prior conviction of an offense specified in subdivision (b).

(b) Section 261, 262, 264.1, 269, 285, 286, 288, 288a, 288.5, or 289, or any offense committed in another jurisdiction that includes all of the elements of any of the offenses specified in this subdivision.

(c) A violation of Section 288 or 288.5 by a person who has been previously convicted two or more times of an offense specified in subdivision (b) shall be punished by imprisonment in the state prison for 15 years to life.

SEC. 32. Section 667.6 of the Penal Code is amended to read:

667.6. (a) Any person who is convicted of an offense specified in subdivision (e) and who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions.

(b) Any person who is convicted of an offense specified in subdivision (e) and who has served two or more prior prison terms as defined in Section 667.5 for any of those offenses, shall receive a 10-year enhancement for each of those prior terms.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of an offense specified in subdivision (e) if the crimes involve the same victim on the same occasion. A term may be imposed consecutively pursuant to this subdivision if a person is convicted of at least one offense specified in subdivision (e). If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of

imprisonment, and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(d) A full, separate, and consecutive term shall be imposed for each violation of an offense specified in subdivision (e) if the crimes involve separate victims or involve the same victim on separate occasions.

In determining whether crimes against a single victim were committed on separate occasions under this subdivision, the court shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon his or her actions and nevertheless resumed sexually assaultive behavior. Neither the duration of time between crimes, nor whether or not the defendant lost or abandoned his or her opportunity to attack, shall be, in and of itself, determinative on the issue of whether the crimes in question occurred on separate occasions.

The term shall be served consecutively to any other term of imprisonment and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(e) This section shall apply to the following offenses:

(1) Rape, in violation of paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1), (4), or (5) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 286.

(5) A lewd or lascivious act, in violation of subdivision (b) of Section 288.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 288a.

(8) Sexual penetration, in violation of subdivision (a) or (g) of Section 289.

(9) As a present offense under subdivision (c) or (d), assault with intent to commit a specified sexual offense, in violation of Section 220.

(10) As a prior conviction under subdivision (a) or (b), an offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(f) (1) In addition to any enhancement imposed pursuant to subdivision (a) or (b), the court may also impose a fine not to exceed twenty thousand dollars ($20,000) for anyone sentenced under those provisions. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837.

(2) If the court orders a fine to be imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

SEC. 33. Section 667.61 of the Penal Code is amended to read:

667.61. (a) Any person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 25 years to life.

(b) Except as provided in subdivision (a), any person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 15 years to life.

(c) This section shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1) or (4) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) A lewd or lascivious act, in violation of subdivision (b) of Section 288.

(5) Sexual penetration, in violation of subdivision (a) of Section 289.

(6) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(8) A lewd or lascivious act, in violation of subdivision (a) of Section 288.

(9) Continuous sexual abuse of a child, in violation of Section 288.5.

(d) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) The defendant has been previously convicted of an offense specified in subdivision (c), including an offense committed in another jurisdiction that includes all of the elements of an offense specified in subdivision (c).

(2) The defendant kidnapped the victim of the present offense and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the underlying offense in subdivision (c).

(3) The defendant inflicted aggravated mayhem or torture on the victim or another person in the commission of the present offense in violation of Section 205 or 206.

(4) The defendant committed the present offense during the commission of a burglary of the first degree, as defined in subdivision (a) of Section 460, with intent to commit an offense specified in subdivision (c).

(5) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (2), (3), or (4) of this subdivision.

(e) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) Except as provided in paragraph (2) of subdivision (d), the defendant kidnapped the victim of the present offense in violation of Section 207, 209, or 209.5.

(2) Except as provided in paragraph (4) of subdivision (d), the defendant committed the present offense during the commission of a burglary, in violation of Section 459.

(3) The defendant personally inflicted great bodily injury on the victim or another person in the commission of the present offense in violation of Section 12022.53, 12022.7, or 12022.8.

(4) The defendant personally used a dangerous or deadly weapon or a firearm in the commission of the present offense in violation of Section 12022, 12022.3, 12022.5, or 12022.53.

(5) The defendant has been convicted in the present case or cases of committing an offense specified in subdivision (c) against more than one victim.

(6) The defendant engaged in the tying or binding of the victim or another person in the commission of the present offense.

(7) The defendant administered a controlled substance to the victim in the commission of the present offense in violation of Section 12022.75.

(8) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (1), (2), (3), (4), (6), or (7) of this subdivision.

(f) If only the minimum number of circumstances specified in subdivision (d) or (e) that are required for the punishment provided in subdivision (a) or (b) to apply have been pled and proved, that circumstance or those circumstances shall be used as the basis for imposing the term provided in subdivision (a) or (b), whichever is greater, rather than being used to impose the punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty, or the punishment under another provision of law may be imposed in addition to the punishment provided by this section. However, if any additional circumstance or circumstances specified in subdivision (d) or (e) have been pled and proved, the minimum number of circumstances shall be used as the basis for imposing the term provided in subdivision (a), and any other additional circumstance or circumstances shall be used to impose any punishment or enhancement authorized under any other provision of law.

(g) Notwithstanding Section 1385 or any other provision of law, the court shall not strike any allegation, admission, or finding of any of the circumstances specified in subdivision (d) or (e) for any person who is subject to punishment under this section.

(h) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.

(i) For any offense specified in paragraphs (1) to (7), inclusive, of subdivision (c), the court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions, as defined in subdivision (d) of Section 667.6.

(j) The penalties provided in this section shall apply only if the existence of any circumstance specified in subdivision (d) or (e) is alleged in the accusatory pleading pursuant to this section and either admitted by the defendant in open court or found to be true by the trier of fact.

SEC. 34. Section 667.71 of the Penal Code is amended to read:

667.71. (a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses specified in subdivision (c) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender shall be punished by imprisonment in the state prison for 25 years to life.

(c) This section shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1) or (4) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) A lewd or lascivious act, in violation of subdivision (a) or (b) of Section 288.

(5) Sexual penetration, in violation of subdivision (a) or (j) of Section 289.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Sodomy, in violation of subdivision (c) or (d) of Section 286.

(8) Oral copulation, in violation of subdivision (c) or (d) of Section 288a.

(9) Kidnapping, in violation of subdivision (b) of Section 207.

(10) Kidnapping, in violation of former subdivision (d) of Section 208 (kidnapping to commit specified sex offenses).

(11) Kidnapping, in violation of subdivision (b) of Section 209 with the intent to commit a specified sexual offense.

(12) Aggravated sexual assault of a child, in violation of Section 269.

(13) An offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.

(e) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

SEC. 35. Section 801.2 is added to the Penal Code, to read:

801.2. Notwithstanding any other limitation of time prescribed in this chapter, prosecution for a violation of subdivision (b) of Section 311.4 shall commence within 10 years of the date of production of the pornographic material.

SEC. 36. Section 1170.125 of the Penal Code is amended to read:

1170.125. Notwithstanding Section 2 of Proposition 184, as adopted at the November 8, 1994, general election, for all offenses committed on or after the effective date of this act, all references to existing statutes in Section 1170.12 are to those statutes as they existed on the effective

date of this act, including amendments made to those statutes by the act enacted during the 2005–06 Regular Session that amended this section.

SEC. 37. Section 1192.7 of the Penal Code is amended to read:

1192.7. (a) (1) It is the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under a "one strike," "three strikes" or habitual sex offender statute instead of engaging in plea bargaining over those offenses.

(2) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(3) If the indictment or information charges the defendant with a violent sex crime, as listed in subdivision (c) of Section 667.61, that could be prosecuted under Sections 269, 288.7, subdivisions (b) through (i) of Section 667, Section 667.61, or 667.71, plea bargaining is prohibited unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. At the time of presenting the agreement to the court, the district attorney shall state on the record why a sentence under one of those sections was not sought.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, "serious felony" means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under 14 years of age; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or

any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) any burglary of the first degree; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 12034; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

(d) As used in this section, "bank robbery" means to take or attempt to take, by force or violence, or by intimidation from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association.

As used in this subdivision, the following terms have the following meanings:

(1) "Bank" means any member of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(3) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union administration.

(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 38. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" means the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer. As used in this code, "conditional sentence" means the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to conditions established by the court without the supervision of a probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) (1) Except as provided in subdivision (j), if a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to a probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment.

(2) (A) The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations,

including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted.

(B) Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation.

(C) If the person was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290, the probation officer's report shall include the results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) administered pursuant to Sections 290.04 to 290.06, inclusive, if applicable.

(D) The probation officer shall also include in the report his or her recommendation of both of the following:

(i) The amount the defendant should be required to pay as a restitution fine pursuant to subdivision (b) of Section 1202.4.

(ii) Whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund and the amount thereof.

(E) The report shall be made available to the court and the prosecuting and defense attorneys at least five days, or upon request of the defendant or prosecuting attorney nine days, prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorneys that is filed with the court or an oral stipulation in open court that is made and entered upon the minutes of the court.

(3) At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer, including the results of the SARATSO, if applicable, and shall make a statement that it has considered the report, which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections and Rehabilitation at the prison or other institution to which the person is delivered.

(4) The preparation of the report or the consideration of the report by the court may be waived only by a written stipulation of the prosecuting and defense attorneys that is filed with the court or an oral stipulation in open court that is made and entered upon the minutes of the court, except that there shall be no waiver unless the court consents thereto. However, if the defendant is ultimately sentenced and committed to the state prison, a probation report shall be completed pursuant to Section 1203c.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) If a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If the person was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290, the court shall refer the matter to the probation officer for the purpose of obtaining a report on the results of the State-Authorized Risk Assessment Tool for Sex Offenders administered pursuant to Sections 290.04 to 290.06, inclusive, if applicable, which the court shall consider. If the case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person that could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert the information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, carjacking, burglary, burglary with explosives, rape with force or violence, torture, aggravated mayhem, murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of those crimes and who was armed with the weapon at either of those times.

(2) Any person who used, or attempted to use, a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, torture, aggravated mayhem, murder, attempt to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, 288a, or 288.5, or a conspiracy to commit one or more of those crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(A) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of the previous crime or his or her arrest for the previous crime, he or she was armed with a weapon at either of those times.

(B) The person used, or attempted to use, a deadly weapon upon a human being in connection with the perpetration of the previous crime.

(C) The person willfully inflicted great bodily injury or torture in the perpetration of the previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned, or caused the burning of, an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(11) Any person who possesses a short-barreled rifle or a short-barreled shotgun under Section 12020, a machinegun under Section 12220, or a silencer under Section 12520.

(12) Any person who is convicted of violating Section 8101 of the Welfare and Institutions Code.

(13) Any person who is described in paragraph (2) or (3) of subdivision (g) of Section 12072.

(f) When probation is granted in a case which comes within subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to determination of the amount of a restitution fine pursuant to subdivision (b) of Section 1202.4 in all cases where the determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon that referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in subdivision (b) of Section 1202.4.

(h) If a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer may obtain and include in the report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain a statement if the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator of the Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4) and the probationer has reimbursed the county that has jurisdiction over his or her probation case the reasonable costs of processing his or her request for interstate compact supervision. The amount and method of reimbursement shall be in accordance with Section 1203.1b.

(j) In any court where a county financial evaluation officer is available, in addition to referring the matter to the probation officer, the court may order the defendant to appear before the county financial evaluation officer for a financial evaluation of the defendant's ability to pay restitution, in which case the county financial evaluation officer shall report his or her findings regarding restitution and other court-related costs to the probation officer on the question of the defendant's ability to pay those costs.

Any order made pursuant to this subdivision may be enforced as a violation of the terms and conditions of probation upon willful failure to pay and at the discretion of the court, may be enforced in the same

manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

(k) Probation shall not be granted to, nor shall the execution of, or imposition of sentence be suspended for, any person who is convicted of a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7, and who was on probation for a felony offense at the time of the commission of the new felony offense.

SEC. 39. Section 1203c of the Penal Code is amended to read:

1203c. (a) (1) Notwithstanding any other provisions of law, whenever a person is committed to an institution under the jurisdiction of the Department of Corrections and Rehabilitation, whether probation has been applied for or not, or granted and revoked, it shall be the duty of the probation officer of the county from which the person is committed to send to the Department of Corrections and Rehabilitation a report of the circumstances surrounding the offense and the prior record and history of the defendant, as may be required by the Secretary of the Department of Corrections and Rehabilitation.

(2) If the person is being committed to the jurisdiction of the department for a conviction of an offense that requires him or her to register as a sex offender pursuant to Section 290, the probation officer shall include in the report the results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) administered pursuant to Sections 290.04 to 290.06, inclusive, if applicable.

(b) These reports shall accompany the commitment papers. The reports shall be prepared in the form prescribed by the administrator following consultation with the Corrections Standards Authority, except that if the defendant is ineligible for probation, a report of the circumstances surrounding the offense and the prior record and history of the defendant, prepared by the probation officer on request of the court and filed with the court before sentence, shall be deemed to meet the requirements of paragraph (1) of subdivision (a).

(c) In order to allow the probation officer an opportunity to interview, for the purpose of preparation of these reports, the defendant shall be held in the county jail for 48 hours, excluding Saturdays, Sundays and holidays, subsequent to imposition of sentence and prior to delivery to the custody of the Secretary of the Department of Corrections and Rehabilitation, unless the probation officer has indicated the need for a different period of time.

SEC. 40. Section 1203e is added to the Penal Code, to read:

1203e. (a) Commencing June 1, 2010, the probation department shall compile a Facts of Offense Sheet for every person convicted of an offense that requires him or her to register as a sex offender pursuant to

Section 290 who is referred to the department pursuant to Section 1203. The Facts of Offense Sheet shall contain the following information concerning the offender: name; CII number; criminal history, including all arrests and convictions for any registerable sex offenses or any violent offense; circumstances of the offense for which registration is required, including, but not limited to, weapons used and victim pattern; and results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO), as set forth in Section 290.04, if required. The Facts of Offense Sheet shall be included in the probation officer's report.

(b) The defendant may move the court to correct the Facts of Offense Sheet. Any corrections to that sheet shall be made consistent with procedures set forth in Section 1204.

(c) The probation officer shall send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender Tracking Program within 30 days of the person's sex offense conviction, and it shall be made part of the registered sex offender's file maintained by the Sex Offender Tracking Program. The Facts of Offense Sheet shall thereafter be made available to law enforcement by the Department of Justice, which shall post it with the offender's record on the Department of Justice Internet Web site maintained pursuant to Section 290.46, and shall be accessible only to law enforcement.

(d) If the registered sex offender is sentenced to a period of incarceration, at either the state prison or a county jail, the Facts of Offense Sheet shall be sent by the Department of Corrections and Rehabilitation or the county sheriff to the registering law enforcement agency in the jurisdiction where the registered sex offender will be paroled or will live on release, within three days of the person's release. If the registered sex offender is committed to the Department of Mental Health, the Facts of Offense Sheet shall be sent by the Department of Mental Health to the registering law enforcement agency in the jurisdiction where the person will live on release, within three days of release.

SEC. 41. Section 1203f is added to the Penal Code, to read:

1203f. Every probation department shall ensure that all probationers under active supervision who are deemed to pose a high risk to the public of committing sex crimes, as determined by the State-Authorized Risk Assessment Tool for Sex Offenders, as set forth in Sections 290.04 to 290.06, inclusive, are placed on intensive and specialized probation supervision and are required to report frequently to designated probation officers. The probation department may place any other probationer convicted of an offense that requires him or her to register as a sex offender who is on active supervision to be placed on intensive and

specialized supervision and require him or her to report frequently to designated probation officers.

SEC. 42. Section 1203.06 of the Penal Code is amended to read:

1203.06. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(A) Murder.

(B) Robbery, in violation of Section 211.

(C) Kidnapping, in violation of Section 207, 209, or 209.5.

(D) A lewd or lascivious act, in violation of Section 288.

(E) Burglary of the first degree, as defined in Section 460.

(F) Rape, in violation of Section 261, 262, or 264.1.

(G) Assault with intent to commit a specified sexual offense, in violation of Section 220.

(H) Escape, in violation of Section 4530 or 4532.

(I) Carjacking, in violation of Section 215.

(J) Aggravated mayhem, in violation of Section 205.

(K) Torture, in violation of Section 206.

(L) Continuous sexual abuse of a child, in violation of Section 288.5.

(M) A felony violation of Section 136.1 or 137.

(N) Sodomy, in violation of Section 286.

(O) Oral copulation, in violation of Section 288a.

(P) Sexual penetration, in violation of Section 264.1 or 289.

(Q) Aggravated sexual assault of a child, in violation of Section 269.

(2) Any person previously convicted of a felony specified in paragraph (1), or assault with intent to commit murder under former Section 217, who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his or her arrest for the subsequent felony.

(3) Aggravated arson, in violation of Section 451.5.

(b) (1) The existence of any fact that would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

(2) As used in subdivision (a), "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, to intentionally strike or hit a human being with it, or to use it in any manner that qualifies under Section 12022.5.

(3) As used in subdivision (a), "armed with a firearm" means to knowingly carry or have available for use a firearm as a means of offense or defense.

SEC. 43. Section 1203.065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is convicted of violating paragraph (2) or (6) of subdivision (a) of Section 261, Section 264.1, 266h, 266i, 266j, or 269, or paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286 or 288a, or subdivision (a) of Section 289, or subdivision (c) of Section 311.4.

(b) (1) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of violating paragraph (7) of subdivision (a) of Section 261, subdivision (k) of Section 286, subdivision (k) of Section 288a, subdivision (g) of Section 289, or Section 220 for assault with intent to commit a specified sexual offense.

(2) When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

SEC. 44. Section 1203.075 of the Penal Code is amended to read:

1203.075. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within this section be stricken pursuant to Section 1385 for, any person who personally inflicts great bodily injury, as defined in Section 12022.7, on the person of another in the commission or attempted commission of any of the following crimes:

(1) Murder.

(2) Robbery, in violation of Section 211.

(3) Kidnapping, in violation of Section 207, 209, or 209.5.

(4) A lewd or lascivious act, in violation of Section 288.

(5) Burglary of the first degree, as defined in Section 460.

(6) Rape, in violation of Section 261, 262, or 264.1.

(7) Assault with intent to commit a specified sexual offense, in violation of Section 220.

(8) Escape, in violation of Section 4530 or 4532.

(9) Sexual penetration, in violation of Section 289 or 264.1.

(10) Sodomy, in violation of Section 286.

(11) Oral copulation, in violation of Section 288a.

(12) Carjacking, in violation of Section 215.

(13) Continuous sexual abuse of a child, in violation of Section 288.5.

(14) Aggravated sexual assault of a child, in violation of Section 269.

(b) The existence of any fact that would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

SEC. 45. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) For any person being evaluated as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, parole shall toll from evaluation through the period of commitment, including conditional release under court monitoring, if any. The period during which parole is tolled shall include the filing of a petition for commitment, hearing on probable cause, trial proceedings, actual commitment, and any time spent on conditional release under court monitoring. Parole shall be tolled through any subsequent evaluation and commitment proceedings, actual commitment, and any time spent on conditional release under court monitoring. Time spent on conditional release under the supervision of the court shall be subtracted from the person's period of parole.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if

applicable, the inmate shall be released on parole for a period not exceeding three years, unless the parole authority, for good cause, waives parole and discharges the inmate from the custody of the department. However, an inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), (15), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding 10 years.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to subdivision (b) of Section 209, with the intent to commit a specified sexual offense, Section 269, 288.7, 667.51, 667.61, or 667.71, the period of parole shall be 10 years.

(4) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), and (3) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, an inmate subject to three years on parole may not be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, an inmate subject to five years on parole may not be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, an inmate subject to 10 years on parole may not be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

(6) The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length and conditions of parole by the parole authority. The department or the board may impose as a condition of parole that an inmate make payments on the inmate's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Parole Hearings shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any inmate released on parole rests with the board, except for any escaped inmate or any inmate released prior to his or her scheduled release date who is returned to custody, in which case Section 3060 shall apply.

(9) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290 who are on parole to engage them in treatment.

SEC. 46. Section 3001 of the Penal Code is amended to read:

3001. (a) (1) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections and Rehabilitation recommends to the Board of Parole Hearings that the person be retained on parole and the board, for good cause, determines that the person will be retained.

(2) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison for a period not exceeding three years and has been on parole continuously for two years since release from confinement, or has been released on parole from the state prison for a period not exceeding 10 years and has been on parole continuously for six years since release

from confinement, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board, for good cause, determines that the person will be retained. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (2) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(c) Notwithstanding any other provision of law, when any person referred to in paragraph (3) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for six years since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(d) In the event of a retention on parole, the parolee shall be entitled to a review by the parole authority each year thereafter until the maximum statutory period of parole has expired.

(e) The amendments to this section made during the 2005–06 Regular Session of the Legislature shall only be applied prospectively and shall not extend the parole period for any person whose eligibility for discharge from parole was fixed as of the effective date of those amendments.

SEC. 47. Section 3005 of the Penal Code is amended to read:

3005. (a) The Department of Corrections and Rehabilitation shall ensure that all parolees under active supervision who are deemed to pose a high risk to the public of committing sex crimes, as determined by the State-Authorized Risk Assessment Tool for Sex Offenders, as set forth in Sections 290.04 to 290.06, inclusive, are placed on intensive and specialized parole supervision and are required to report frequently to designated parole officers. The department may place any other parolee convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290 who is on active supervision on intensive and specialized supervision and require him or her to report frequently to designated parole officers.

(b) The department shall develop and, at the discretion of the secretary, and subject to an appropriation of the necessary funds, may implement

a plan for the implementation of relapse prevention treatment programs, and the provision of other services deemed necessary by the department, in conjunction with intensive and specialized parole supervision, to reduce the recidivism of sex offenders.

(c) The department shall develop control and containment programming for sex offenders who have been assessed pursuant to Section 5040 and shall require participation in appropriate programming as a condition of parole.

SEC. 48. Section 3072 is added to the Penal Code, to read:

3072. (a) The Department of Corrections and Rehabilitation, subject to the legislative appropriation of the necessary funds, may establish and operate, after January 1, 2007, a specialized sex offender treatment pilot program for inmates whom the department determines pose a high risk to the public of committing violent sex crimes.

(b) (1) The program shall be based upon the relapse prevention model and shall include referral to specialized services, such as substance abuse treatment, for offenders needing those specialized services.

(2) Except as otherwise required under Section 645, the department may provide medication treatments for selected offenders, as determined by medical protocols, and only on a voluntary basis and with the offender's informed consent.

(c) (1) The program shall be targeted primarily at adult sex offenders who meet the following conditions:

(A) The offender is within five years of being released on parole. An inmate serving a life term may be excluded from treatment until he or she receives a parole date and is within five years of that parole date, unless the department determines that the treatment is necessary for the public safety.

(B) The offender has been clinically assessed.

(C) A review of the offender's criminal history indicates that the offender poses a high risk of committing new sex offenses upon his or her release on parole.

(D) Based upon the clinical assessment, the offender may be amenable to treatment.

(2) The department may include other appropriate offenders in the treatment program if doing so facilitates the effectiveness of the treatment program.

(3) Notwithstanding any other provision of law, inmates who are condemned to death or sentenced to life without the possibility of parole are ineligible to participate in treatment.

(d) The program under this section shall be established with the assistance and supervision of the staff of the department primarily by obtaining the services of specially trained sex offender treatment

providers, as determined by the secretary of the department and the Director of the Department of Mental Health.

(e) (1) The program under this section, upon full implementation, shall provide for the treatment of inmates who are deemed to pose a high risk to the public of committing sex crimes, as determined by the State-Authorized Risk Assessment Tool for Sex Offenders, pursuant to Sections 290.04 to 290.06, inclusive.

(2) To the maximum extent that is practical and feasible, offenders participating in the treatment program shall be held in a separate area of the prison facility, segregated from any non-sex offenders held at the same prison, and treatment in the pilot program shall be provided in program space segregated, to the maximum extent that is practical and feasible, from program space for any non-sex offenders held at the same prison.

(f) (1) The Department of Mental Health, by January 1, 2012, shall provide a report evaluating the program to the fiscal and public safety policy committees of both houses of the Legislature, and to the Joint Legislative Budget Committee.

(2) The report shall initially evaluate whether the program under this section is operating effectively, is having a positive clinical effect on participating sex offenders, and is cost effective for the state.

(3) In conducting its evaluation, the Department of Mental Health shall consider the effects of treatment of offenders while in prison and while subsequently on parole.

(4) The Department of Mental Health shall advise the Legislature as to whether the program should be continued past its expiration date, expanded, or concluded.

SEC. 49. Section 12022.75 of the Penal Code is amended to read:

12022.75. (a) Except as provided in subdivision (b), any person who, for the purpose of committing a felony, administers by injection, inhalation, ingestion, or any other means, any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, against the victim's will by means of force, violence, or fear of immediate and unlawful bodily injury to the victim or another person, shall, in addition and consecutive to the penalty provided for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three years.

(b) (1) Any person who, in the commission or attempted commission of any offense specified in paragraph (2), administers any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code to the victim shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

(2) This subdivision shall apply to the following offenses:

(A) Rape, in violation of paragraph (3) or (4) of subdivision (a) of Section 261.

(B) Sodomy, in violation of subdivision (f) or (i) of Section 286.

(C) Oral copulation, in violation of subdivision (f) or (i) of Section 288a.

(D) Sexual penetration, in violation of subdivision (d) or (e) of Section 289.

(E) Any offense specified in subdivision (c) of Section 667.61.

SEC. 50. Section 13887 of the Penal Code is amended to read:

13887. Any county may establish and implement a sexual assault felony enforcement (SAFE) team program pursuant to the provisions of this chapter.

SEC. 51. Section 13887.1 of the Penal Code is amended to read:

13887.1. (a) The mission of this program shall be to reduce violent sexual assault offenses in the county through proactive surveillance and arrest of habitual sexual offenders, as defined in Section 667.71, and strict enforcement of registration requirements for sex offenders pursuant to Section 290.

(b) The proactive surveillance and arrest authorized by this chapter shall be conducted within the limits of existing statutory and constitutional law.

(c) The mission of this program shall also be to provide community education regarding the purposes of Chapter 5.5 (commencing with Section 290) of Title 9 of Part 2. The goal of community education is to do all of the following:

(1) Provide information to the public about ways to protect themselves and families from sexual assault.

(2) Emphasize the importance of using the knowledge of the presence of registered sex offenders in the community to enhance public safety.

(3) Explain that harassment or vigilantism against registrants may cause them to disappear and attempt to live without supervision, or to register as transients, which would defeat the purpose of sex offender registration.

SEC. 52. Section 13887.5 is added to the Penal Code, to read:

13887.5. The Office of Emergency Services shall establish standards by which grants are awarded on a competitive basis to counties for SAFE teams. The grants shall be awarded to innovative teams designed to promote the purposes of this chapter.

SEC. 53. Section 6600 of the Welfare and Institutions Code is amended to read:

6600. As used in this article, the following terms have the following meanings:

(a) (1) "Sexually violent predator" means a person who has been convicted of a sexually violent offense against two or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(2) For purposes of this subdivision any of the following shall be considered a conviction for a sexually violent offense:

(A) A prior or current conviction that resulted in a determinate prison sentence for an offense described in subdivision (b).

(B) A conviction for an offense described in subdivision (b) that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

(C) A prior conviction in another jurisdiction for an offense that includes all of the elements of an offense described in subdivision (b).

(D) A conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b).

(E) A prior conviction for which the inmate received a grant of probation for an offense described in subdivision (b).

(F) A prior finding of not guilty by reason of insanity for an offense described in subdivision (b).

(G) A conviction resulting in a finding that the person was a mentally disordered sex offender.

(H) A prior conviction for an offense described in subdivision (b) for which the person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, pursuant to Section 1731.5.

(I) A prior conviction for an offense described in subdivision (b) that resulted in an indeterminate prison sentence.

(3) Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of Mental Health. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(4) The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

(b) "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as defined in subdivision (a): a felony violation of Section 261, 262, 264.1, 269, 286, 288, 288a, 288.5, or 289 of the Penal Code, or any felony violation of Section 207, 209, or 220 of the Penal Code, committed with the intent to commit a violation of Section 261, 262, 264.1, 269, 286, 288, 288a, or 289 of the Penal Code.

(c) "Diagnosed mental disorder" includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) "Danger to the health and safety of others" does not require proof of a recent overt act while the offender is in custody.

(e) "Predatory" means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) "Recent overt act" means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

(g) Notwithstanding any other provision of law and for purposes of this section, no more than one prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following applies:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b). Notwithstanding Section 6600.1, only an offense described in subdivision (b) shall constitute a sexually violent offense for purposes of this subdivision.

(3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.

(4) The juvenile was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities for the sexually violent offense.

(h) A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

SEC. 54. Section 6601 of the Welfare and Institutions Code is amended to read:

6601. (a) (1) Whenever the Secretary of the Department of Corrections and Rehabilitation determines that an individual who is in custody under the jurisdiction of that department, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the director may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of Mental Health in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of Mental Health for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of Mental Health shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of Mental Health, to determine whether

the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of Mental Health shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of Mental Health shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of Mental Health determines that the person is a sexually violent predator as defined in this article, the Director of Mental Health shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) If the person is otherwise subject to parole, a finding or placement made pursuant to this article shall toll the term of parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The tolling of parole shall occur in accordance with paragraph (4) of subdivision (a) of Section 3000 of the Penal Code.

(*l*) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of Mental Health of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

SEC. 55. Section 6604 of the Welfare and Institutions Code is amended to read:

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for an indeterminate term to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health. Time spent on conditional release shall not count toward the term of commitment, unless the person is placed in a locked facility by the conditional release program, in which case

the time in a locked facility shall count toward the term of commitment. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections and Rehabilitation.

SEC. 56. Section 6604.1 of the Welfare and Institutions Code is amended to read:

6604.1. (a) The indeterminate term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section.

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing psychiatrist, designated by the State Department of Mental Health. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed pursuant to a trial conducted pursuant to subdivision (f) of Section 6605. The rights, requirements, and procedures set forth in Section 6603 shall apply to all commitment proceedings.

SEC. 57. Section 6605 of the Welfare and Institutions Code is amended to read:

6605. (a) A person found to be a sexually violent predator and committed to the custody of the State Department of Mental Health shall have a current examination of his or her mental condition made at least once every year. The person may retain, or if he or she is indigent and so requests, the court may appoint, a qualified expert or professional person to examine him or her, and the expert or professional person shall have access to all records concerning the person.

(b) The director shall provide the committed person with an annual written notice of his or her right to petition the court for conditional release under Section 6608. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive his or her right to petition the court for conditional release, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that he or she would not be a danger to the health and safety of others if discharged. The committed person shall have the right to be present and to have an attorney represent him or her at the show cause hearing.

(c) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court shall set a hearing on the issue.

(d) At the hearing, the committed person shall have the right to be present and shall be entitled to the benefit of all constitutional protections

that were afforded to him or her at the initial commitment proceeding. The attorney designated by the county pursuant to subdivision (i) of Section 6601 shall represent the state and shall have the right to demand a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person also shall have the right to demand a jury trial and to have experts evaluate him or her on his or her behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be on the state to prove beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged. The committed person's failure to engage in treatment shall be considered evidence that his or her condition has not changed, for purposes of any court proceeding held pursuant to this section, and a jury shall be so instructed. Completion of treatment programs shall be a condition of release.

(e) If the court or jury rules against the committed person at the hearing conducted pursuant to subdivision (d), the term of commitment of the person shall run for an indeterminate period from the date of this ruling. If the court or jury rules for the committed person, he or she shall be unconditionally released and unconditionally discharged.

(f) In the event that the State Department of Mental Health has reason to believe that a person committed to it as a sexually violent predator is no longer a sexually violent predator, it shall seek judicial review of the person's commitment pursuant to the procedures set forth in Section 7250 in the superior court from which the commitment was made. If the superior court determines that the person is no longer a sexually violent predator, he or she shall be unconditionally released and unconditionally discharged.

SEC. 58. The sum of four hundred ninety-five thousand dollars ($495,000) is hereby appropriated from the General Fund to the Office of Emergency Services, Division of Criminal Justice Programs for child abuse and abduction programs that provide prevention education to children in schools, and parents, teachers, and service providers. The objective of the programs shall be to increase awareness of the problem of child abduction, and basic knowledge of how children can help to protect themselves from being abducted. The programs may include a media component to build awareness of the problem within communities.

SEC. 59. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 60. Section 19.5 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by both this bill and Assembly Bill 1849. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, but this bill becomes operative first, (2) each bill amends Section 290.46 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1849, in which case Section 290.46 of the Penal Code, as amended by Section 19 of this bill, shall remain operative only until the operative date of Assembly Bill 1849, at which time Section 19.5 of this bill shall become operative.

SEC. 61. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 62. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are::

In order to protect the health and safety of the children of California, it is necessary that this act take effect immediately.

CHAPTER 338

An act to add and repeal Chapter 3 (commencing with Section 9000) to Title 9 of Part 3 of the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Chapter 3 (commencing with Section 9000) is added to Title 9 of Part 3 of the Penal Code, to read:

Chapter 3. Sex Offender Management Board

9000. As used in this chapter, the following definitions apply:

(a) "Board" means the Sex Offender Management Board created in this chapter.

(b) "Sex Offender" means any person who is required to register as a sex offender under Section 290 of the Penal Code.

(c) "Treatment" means a set of specialized interventions delivered by qualified mental health professionals and designed to address the multiple psychological and physiological factors found to be associated with sexual offending.

(d) "Management" means a comprehensive and collaborative team approach to regulating, controlling, monitoring, and otherwise influencing the current and, insofar as is possible, the future behavior of sex offenders who are living in the community and are directly under the authority of the criminal justice system or of another governmental agency performing similar functions. The overriding purpose of management of sex offenders is to enhance community safety by preventing future sexual victimization. Management includes supervision and specialized treatment as well as a variety of other interventions.

(e) "Supervision" means a specialized approach to the process of overseeing, insofar as authority to do so is granted to the supervising agency, all significant aspects of the lives of sex offenders who are being managed, as described in subdivision (d). This approach includes traditional methods as well as techniques and tools specifically designed to respond to the risks to community safety raised by sex offenders. Supervision is one component of management.

9001. (a) The Sex Offender Management Board which is hereby created under the jurisdiction of the Department of Corrections and Rehabilitation, shall consist of 17 members. The membership of the board shall reflect, to the extent possible, representation of northern, central, and southern California as well as both urban and rural areas. Each appointee to the board, regardless of the appointing authority, shall have the following characteristics:

(1) Substantial prior knowledge of issues related to sex offenders, at least insofar as related to his or her own agency's practices.

(2) Decisionmaking authority for, or direct access to those who have decisionmaking authority for, the agency or constituency he or she represents.

(3) A willingness to serve on the board and a commitment to contribute to the board's work.

(b) The membership of the board shall consist of the following persons:

(1) State government agencies:

(A) The Attorney General or his or her designee who shall be an authority in policy areas pertaining to sex offenders and shall have expertise in dealing with sex offender registration, notification, and enforcement.

(B) The Secretary of the Department of Corrections and Rehabilitation or his or her designee who has expertise in parole policies and practices.

(C) The Director of Adult Parole Services or his or her designee.

(D) One California state judge, appointed by the Judicial Council.

(E) The Director of Mental Health or his or her designee who is a licensed mental health professional with recognized expertise in the treatment of sex offenders.

(2) Local government agencies:

(A) Three members who represent law enforcement, appointed by the Governor. One member shall possess investigative expertise and one member shall have law enforcement duties that include registration and notification responsibilities, and one shall be a chief probation officer.

(B) One member who represents prosecuting attorneys, appointed by the Senate Committee on Rules. He or she shall have expertise in dealing with adult sex offenders.

(C) One member who represents probation officers, appointed by the Speaker of the Assembly.

(D) One member who represents criminal defense attorneys, appointed by the Speaker of the Assembly.

(E) One member who is a county administrator, appointed by the Governor.

(F) One member who is a city manager or his or her designee, appointed by the Speaker of the Assembly.

(3) Nongovernmental agencies:

(A) Two members who are licensed mental health professionals with recognized experience in working with sex offenders and who can represent, through their established involvement in a formal statewide professional organization, those who provide evaluation and treatment for adult sex offenders, appointed by the Senate Committee on Rules.

(B) Two members who are recognized experts in the field of sexual assault and represent sexual assault victims, both adults and children, and rape crisis centers, appointed by the Governor.

(c) The board shall appoint a chair from among the members appointed pursuant to subdivision (b). The chair shall serve in that capacity at the pleasure of the board.

(d) Each member of the board who is appointed pursuant to this section shall serve without compensation.

(e) If a board member is unable to adequately perform his or her duties or is unable to attend more than three meetings in a single 12-month period, he or she is subject to removal from the board by a majority vote of the full board.

(f) Any vacancies on the board as a result of the removal of a member shall be filled by the appointing authority of the removed member within 30 days of the vacancy.

(g) The board may create, at its discretion, subcommittees or task forces to address specific issues. These may include board members as well as invited experts and other participants.

(h) The board shall hire a coordinator who has relevant experience in policy research. The board may hire other staff as funding permits.

(i) In the course of performing its duties, the board shall, when possible, make use of the available resources of research agencies such as the Legislative Analyst's Office, the California Research Bureau, the California State University system, including schools of public policy and criminology, and other similar sources of assistance.

(j) Staff support services for the board shall be provided by staff of the Department of Corrections and Rehabilitation as directed by the secretary.

9002. (a) The board shall address any issues, concerns, and problems related to the community management of adult sex offenders. The main objective of the board, which shall be used to guide the board in prioritizing resources and use of time, is to achieve safer communities by reducing victimization. To that end, the board shall do both of the following:

(1) Conduct a thorough assessment of current management practices for adult sex offenders, primarily those under direct criminal justice or other supervision, residing in California communities. A report on the findings of this assessment shall be submitted to the Legislature and the Governor by January 1, 2008. Areas to be reviewed in this assessment shall include, but not be limited to, the following:

(A) The numbers and distribution of offenders.

(B) Supervision practices.

(C) Treatment availability and quality.

(D) Issues related to housing.

(E) Recidivism patterns.

(F) Response to the safety concerns of past and potential future victims.

(G) Cost and cost-effectiveness of various approaches.

(H) Any significant shortcomings in management practices.

(2) Develop recommendations, based upon the findings in the assessment, to improve management practices of adult sex offenders

under supervision in the community, with the goal of improving community safety. The plan shall address all significant aspects of community management including supervision, treatment, housing, transition to the community, interagency coordination and the practices of other entities that directly or indirectly affect the community management of sex offenders. The board shall provide information to the Legislature and Governor as to its progress by January 1, 2009. The completed plan shall be submitted to the Legislature and the Governor by January 1, 2010.

(b) The board shall conduct public hearings, as it deems necessary, to provide opportunities for gathering information and receiving input regarding the work of the board from concerned stakeholders and the public.

9003. This chapter shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

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

To allow the Governor and the Legislature to make appointments to the Sex Offender Management Board as soon as possible to allow the board to begin working on an assessment of current adult sex offender programs for a report to the Legislature, which is due on January 1, 2008.

CHAPTER 339

An act to add Section 6608.8 to the Welfare and Institutions Code, relating to sex offenders.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 6608.8 is added to the Welfare and Institutions Code, to read:

6608.8. (a) For any person who is proposed for community outpatient treatment under the forensic conditional release program, the department shall provide to the court a copy of the written contract entered into with any public or private person or entity responsible for monitoring and supervising the patient's outpatient placement and treatment program.

This subdivision does not apply to subcontracts between the contractor and clinicians providing treatment and related services to the person.

(b) The terms and conditions of conditional release shall be drafted to include reasonable flexibility to achieve the aims of conditional release, and to protect the public and the conditionally released person.

(c) The court in its discretion may order the department to, notwithstanding Section 4514 or 5328, provide a copy of the written terms and conditions of conditional release to the sheriff or chief of police, or both, that have jurisdiction over the proposed or actual placement community.

(d) (1) Except in an emergency, the department or its designee shall not alter the terms and conditions of conditional release without the prior approval of the court.

(2) The department shall provide notice to the person committed under this article and the district attorney or designated county counsel of any proposed change in the terms and conditions of conditional release.

(3) The court on its own motion, or upon the motion of either party to the action, may set a hearing on the proposed change. The hearing shall be held as soon as is practicable.

(4) If a hearing on the proposed change is held, the court shall state its findings on the record. If the court approves a change in the terms and conditions of conditional release without a hearing, the court shall issue a written order.

(5) In the case of an emergency, the department or its designee may deviate from the terms and conditions of the conditional release if necessary to protect public safety or the safety of the person. If a hearing on the emergency is set by the court or requested by either party, the hearing shall be held as soon as practicable. The department, its designee, and the parties shall endeavor to resolve routine matters in a cooperative fashion without the need for a formal hearing.

(e) Notwithstanding any provision of this section, including, but not limited to, subdivision (d), matters concerning the residential placement, including any changes or proposed changes in residential of the person, shall be considered and determined pursuant to Section 6609.1.

CHAPTER 340

An act to amend Section 290.95 of the Penal Code, relating to sex offenders.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 290.95 of the Penal Code is amended to read:

290.95. (a) Every person required to register under Section 290, who applies for or accepts a position as an employee or volunteer with any person, group, or organization, where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children, shall disclose his or her status as a registrant, upon application or acceptance of a position, to that person, group, or organization.

(b) No person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under 16 years of age shall be an employer, employee, or independent contractor, or act as a volunteer with any person, group, or organization, in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. This subdivision shall not apply to a business owner or independent contractor who has the ability to hire, fire, or discipline minors, but who does not work directly in an unaccompanied setting with minors.

(c) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine, and a violation of this section shall not constitute a continuing offense.

SEC. 1.5. Section 290.95 of the Penal Code is amended to read:

290.95. (a) Every person required to register under Section 290, who applies for or accepts a position as an employee or volunteer with any person, group, or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children, shall disclose his or her status as a registrant, upon application or acceptance of a position, to that person, group, or organization.

(b) Every person required to register under Section 290 who applies for or accepts a position as an employee or volunteer with any person, group, or organization where the applicant would be working directly and in an accompanied setting with minor children, and the applicant's work would require him or her to touch the minor children on more than an incidental basis, shall disclose his or her status as a registrant, upon application or acceptance of the position, to that person, group, or organization.

(c) No person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under 16 years of age shall be an employer, employee, or independent contractor, or act as a volunteer with any person, group, or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. This subdivision shall not apply to a business owner or independent contractor who has the ability to hire, fire, or discipline minors, but who does not work directly in an unaccompanied setting with minors.

(d) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine, and a violation of this section shall not constitute a continuing offense.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 290.95 of the Penal Code proposed by both this bill and AB 2263. It shall become effective only if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 290.95 of the Penal Code, and (3) this bill is enacted after AB 2263, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 341

An act to amend Section 290.95 of the Penal Code, relating to sex offenders.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 290.95 of the Penal Code is amended to read:

290.95. (a) Every person required to register under Section 290, who applies or accepts a position as an employee or volunteer with any person, group, or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children, shall disclose his or her status as a registrant, upon application or acceptance of a position, to that person, group, or organization.

(b) Every person required to register under Section 290 who applies or accepts a position as an employee or volunteer with any person, group, or organization where the applicant would be working directly and in an accompanied setting with minor children, and the applicant's work would require him or her to touch the minor children on more than an incidental and occasional basis, shall disclose his or her status as a registrant, upon application or acceptance of the position, to that person, group, or organization.

(c) No person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under 16 years of age shall be an employee or act as a volunteer with any person, group, or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children.

(d) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine, and a violation of this section shall not constitute a continuing offense.

SEC. 1.5. Section 290.95 of the Penal Code is amended to read:

290.95. (a) Every person required to register under Section 290, who applies or accepts a position as an employee or volunteer with any person, group, or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children, shall disclose his or her status as a registrant, upon application or acceptance of a position, to that person, group, or organization.

(b) Every person required to register under Section 290 who applies for or accepts a position as an employee or volunteer with any person, group, or organization where the applicant would be working directly and in an accompanied setting with minor children, and the applicant's work would require him or her to touch the minor children on more than an incidental basis, shall disclose his or her status as a registrant, upon

application or acceptance of the position, to that person, group, or organization.

(c) No person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under 16 years of age shall be an employer, employee, or independent contractor, or act as a volunteer with any person, group, or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. This subdivision shall not apply to a business owner or an independent contractor who does not work directly in an unaccompanied setting with minors.

(d) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine, and a violation of this section shall not constitute a continuing offense.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 290.95 of the Penal Code proposed by both this bill and AB 1900. It shall become effective only if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 290.95 of the Penal Code, and (3) this bill is enacted after AB 1900, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 342

An act to amend Section 98 of, and to repeal Section 98.04 of, the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 98 of the Revenue and Taxation Code is amended to read:

98. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) (A) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1,

1988, of the tax rate or tax base of any locally imposed tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this clause shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this clause as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(B) No reduction may be made pursuant to subparagraph (A) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

Notwithstanding this paragraph:

(A) Commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district, that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(B) Commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(4) Any amount of property tax revenues that has been exchanged pursuant to Section 56842 of the Government Code between the City of Rancho Mirage and a community services district, the formation of which was initiated on or after March 6, 1997, pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code.

(g) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a "services for revenue agreement" means any agreement

between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(h) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

(m) (1) The amendments made to this section, and the repeal of Section 98.04, by the act that added this subdivision shall apply for the 2006–07 fiscal year and each fiscal year thereafter.

(2) For the 2006–07 fiscal year and for each fiscal year thereafter, all of the following apply:

(A) The auditor of the County of Santa Clara shall do both of the following:

(i) Reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to qualifying cities in that county by the ERAF reimbursement amount. This reduction for each qualifying city in the county for each fiscal year shall be the percentage share, of the total reduction required by this clause for all qualifying cities in the county for the 2006–07 fiscal year, that is equal to the proportion that

the total amount of additional ad valorem property tax revenue that is required to be allocated to the qualifying city as a result of the act that added this subdivision bears to the total amount of additional ad valorem property tax revenue that is required to be allocated to all qualifying cities in the county as a result of the act that added this subdivision.

(ii) Increase the total amount of ad valorem property tax revenue otherwise required to be allocated to the county Educational Revenue Augmentation Fund by the ERAF reimbursement amount.

(B) For purposes of this subdivision, "ERAF reimbursement amount" means an amount equal to the difference between the following two amounts:

(i) The portion of the annual tax increment that would have been allocated from the county to the county Educational Revenue Augmentation Fund for the applicable fiscal year if the act that added this subdivision had not been enacted.

(ii) The portion of the annual tax increment that is allocated from the county to the county Educational Revenue Augmentation Fund for the applicable fiscal year.

SEC. 2. Section 98.04 of the Revenue and Taxation Code is repealed.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures being experienced by qualifying cities, as defined in Section 98 of the Revenue and Taxation Code, in the County of Santa Clara.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide qualifying cities in the County of Santa Clara with the revenues needed to provide vital services that protect the public peace, health, and safety as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 343

An act to add Section 18536 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 18536 is added to the Revenue and Taxation Code, to read:

18536. (a) In lieu of electing nonresident directors filing a return pursuant to Section 18501, the Franchise Tax Board may, pursuant to requirements and conditions set forth in applicable forms and instructions, provide for the filing of a group return by a corporation for electing nonresident individuals who receive wages, salaries, fees, or other compensation from that corporation for director services, including attendance of board of directors' meetings that take place in this state. The tax rate or rates applicable to each director's compensation for services performed in this state shall be the highest marginal rate or rates provided for by Part 10 (commencing with Section 17001) of Division 2 and no deductions or credits should be allowed. As required by the Franchise Tax Board, the corporation, as the agent for the electing nonresident directors, shall make the payments of tax, additions to tax, interest, and penalties otherwise required to be paid by, or imposed on, the electing directors.

(b) The Franchise Tax Board may adjust the income of an electing nonresident taxpayer included in a group return filed under this section to properly reflect the income under Part 10 (commencing with Section 17001) of Division 2.

CHAPTER 344

An act relating to public resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. The amendment of Section 25205.6 of the Health and Safety Code, enacted by Chapter 77 of the Statutes of 2006, which expanded the class of businesses subject to the fee imposed by that section, shall apply for the first time to the fee that is due for the 2007 calendar year. The fee for the 2007 calendar year is due no later than February 29, 2008.

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

In order to make the necessary statutory changes to implement the Budget Act of 2006 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 345

An act to amend Section 11580.9, of the Insurance Code, relating to motor vehicle insurance coverage.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 11580.9 of the Insurance Code is amended to read:

11580.9. (a) Where two or more policies affording valid and collectible automobile liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, and one policy affords coverage to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing motor vehicles, then both of the following shall be conclusively presumed:

(1) If, at the time of loss, the motor vehicle is being operated by any person engaged in any of these businesses, or by his or her employee or agent, the insurance afforded by the policy issued to the person engaged in the business shall be primary, and the insurance afforded by any other policy shall be excess.

(2) If, at the time of loss, the motor vehicle is being operated by any person other than as described in paragraph (1), the insurance afforded

by the policy issued to any person engaged in any of these businesses shall be excess over all other insurance available to the operator as a named insured or otherwise.

(b) Where two or more policies apply to the same loss, and one policy affords coverage to a named insured who in the course of his or her business rents or leases motor vehicles without operators, it shall be conclusively presumed that the insurance afforded by that policy to a person other than the named insured or his or her agent or employee, shall be excess over and not concurrent with, any other valid and collectible insurance applicable to the same loss covering the person as a named insured or as an additional insured under a policy with limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code. The presumption provided by this subdivision shall apply only if, at the time of the loss, the involved motor vehicle either:

(1) Qualifies as a "commercial vehicle." For purposes of this subdivision, "commercial vehicle" means a type of vehicle subject to registration or identification under the laws of this state and is one of the following:

(A) Used or maintained for the transportation of persons for hire, compensation, or profit.

(B) Designed, used, or maintained primarily for the transportation of property.

(2) Has been leased for a term of six months or longer.

(c) Where two or more policies are applicable to the same loss arising out of the loading or unloading of a motor vehicle, and one or more of the policies is issued to the owner, tenant, or lessee of the premises on which the loading or unloading occurs, it shall be conclusively presumed that the insurance afforded by the policy covering the motor vehicle shall not be primary, notwithstanding anything to the contrary in any endorsement required by law to be placed on the policy, but shall be excess over all other valid and collectible insurance applicable to the same loss with limits up to the financial responsibility requirements specified in Section 16056 of the Vehicle Code. In that event, the two or more policies shall not be construed as providing concurrent coverage, and only the insurance afforded by the policy or policies covering the premises on which the loading or unloading occurs shall be primary and the policy or policies shall cover as an additional insured with respect to the loading or unloading operations all employees of the owner, tenant, or lessee while acting in the course and scope of their employment.

(d) Except as provided in subdivisions (a), (b), and (c), where two or more policies affording valid and collectible liability insurance apply to the same motor vehicle or vehicles in an occurrence out of which a

liability loss shall arise, it shall be conclusively presumed that the insurance afforded by that policy in which the motor vehicle is described or rated as an owned automobile shall be primary and the insurance afforded by any other policy or policies shall be excess.

(e) Any insurance policy which, under the terms of subdivisions (a) to (d), inclusive, applies as excess coverage may provide with respect to any primary policy or to any loss to which primary insurance is not valid and collectible in whole or in part, that the excess policy shall apply only to the extent necessary to provide the insured with the coverage limits specified in Section 16056 of the Vehicle Code.

(f) The presumptions stated in subdivisions (a) to (d), inclusive, may be modified or amended only by written agreement signed by all insurers who have issued a policy or policies applicable to a loss described in these subdivisions and all named insureds under these policies.

(g) Where two or more personal policies affording valid and collectible liability insurance apply to the same motor vehicle in an occurrence out of which a loss shall arise, and one policy, as defined in subdivision (a) of Section 660, is primary, either by its terms or by operation of law, and one or more of the personal policies providing liability insurance, as defined in Section 108, are excess, either by their terms or by operation of law, then the following shall apply:

(1) Each insurer shall pay its share of the defense costs. Each insurer's share of the defense costs shall be the percentage of the total defense costs equal to the amount of damage paid by that insurer as a percentage of total damages paid by all insurers whose policies apply to that motor vehicle.

(2) The term "defense costs" means, for purposes of this subdivision, reasonable attorney's fees and expenses, investigation expenses, expert witness fees, and costs allowable under Section 1033.5 of the Code of Civil Procedure.

(h) Notwithstanding subdivision (b), when two or more policies affording valid and collectible automobile liability insurance apply to a power unit and an attached trailer or trailers in an occurrence out of which a liability loss shall arise, and one policy affords coverage to a named insured in the business of a trucker, defined as any person or organization engaged in the business of transporting property by auto for hire, then the following shall be conclusively presumed: If at the time of loss, the power unit is being operated by any person in the business of a trucker, the insurance afforded by the policy to the person engaged in the business of a trucker shall be primary for both power unit and trailer or trailers, and the insurance afforded by the other policy shall be excess.

(i) For purposes of this article, a certificate of self-insurance issued pursuant to Section 16053 of the Vehicle Code or a deposit of cash made pursuant to Section 16054.2 of the Vehicle Code or a bond in effect pursuant to Section 16054 of the Vehicle Code or a report of governmental ownership or lease filed pursuant to Section 16051 of the Vehicle Code shall be considered a policy of automobile liability insurance. However, this subdivision does not establish or provide the basis for any other form of liability for or upon a self-insurer or other person or entity holding, issuing, or establishing any form of security as described herein.

CHAPTER 346

An act to add Section 89911 to the Education Code, and to amend Sections 10701 and 10704 of, and to add Section 10706.5 to, the Public Contract Code, relating to public contracts.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 89911 is added to the Education Code, to read:

89911. Any construction project located on property of the California State University that is performed pursuant to a contract entered into or awarded by an auxiliary organization and funded in whole or in part by public funds is subject to the California State University Contract Law (Chapter 2.5 (commencing with Section 10700) of Part 2 of Division 2 of the Public Contract Code).

SEC. 2. Section 10701 of the Public Contract Code is amended to read:

10701. As used in this chapter:

(a) "Project" includes the erection, construction, alteration, painting, repair, or improvement of any state structure, building, road, or other state improvement of any kind. "Project" includes a project located on California State University property and performed pursuant to a contract entered into or awarded by an auxiliary organization, as defined in Section 89901 of the Education Code, and funded in whole or in part by public funds.

(b) "Service contract" means any contract for services in connection with a project other than a project contract, and includes, but is not

limited to, contracts for architectural, engineering, planning, testing, general studies, or feasibility services.

(c) "Trustees" means the Trustees of the California State University and their designees.

SEC. 3. Section 10704 of the Public Contract Code is amended to read:

10704. The project shall be under the sole and direct control of the trustees, pursuant to the powers and responsibilities invested in them by Chapter 8 (commencing with Section 66600) of Part 40 of Division 5 of Title 3 of the Education Code. For the purposes of this chapter, a project located on California State University property and performed pursuant to a contract entered into or awarded by an auxiliary organization, as defined in Section 89901 of the Education Code, and funded in whole or in part by public funds, shall be deemed to be under the sole and direct control of the trustees.

SEC. 4. Section 10706.5 is added to the Public Contract Code, to read:

10706.5. The trustees may enter into an agreement with an auxiliary organization, as defined in Section 89901 of the Education Code, under which the auxiliary organization may carry out any of the functions of the trustees under this chapter, upon terms that are mutually agreed upon.

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 347

An act to amend Section 25618 of the Business and Professions Code, to amend Sections 3510, 17419, and 17700 of the Financial Code, to amend Section 80174 of the Food and Agricultural Code, to amend Sections 1368, 3108, and 51018.7 of the Government Code, to amend Sections 25180.7, 44209, 100895, and 116730 of the Health and Safety Code, to amend Sections 145 and 1672 of the Military and Veterans Code, to amend Section 8285 of the Public Utilities Code, to amend Sections 7093.6, 9278, 18631.7, 19542.3, 43606, 45955, 46705, and 50156.18 of the Revenue and Taxation Code, and to amend Section 13387 of the Water Code, relating to crimes.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

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

SECTION 1. Section 25618 of the Business and Professions Code is amended to read:

25618. Every person convicted of a felony for a violation of any of the provisions of this division for which another punishment is not specifically provided for in this division shall be punished by a fine of not more than ten thousand dollars ($10,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 2. Section 3510 of the Financial Code is amended to read:

3510. It shall be unlawful for any director, officer, agent, or employee of any corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any commodities, and any person violating this section shall be punished by a fine of not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment, in the discretion of the court.

SEC. 3. Section 17419 of the Financial Code is amended to read:

17419. On and after January 1, 1992, any person seeking employment with an escrow agent shall complete an employment application on or before the first day of employment which includes, at least, the following information. A copy of the employment application shall be forwarded to the commissioner on or before the first day of the applicant's employment. Persons required to file a statement of identity and questionnaire pursuant to subdivision (f) of Section 17209 or Section 17212.1 are not required to file the employment application set forth in this section. Each person completing the employment application shall be given the notice required by the Information Practices Act (Section 1798.17 of the Civil Code), copies of which may be obtained from the commissioner. Nothing in this section shall limit an escrow agent from requesting additional information from an applicant.

STATEMENT OF IDENTITY
AND EMPLOYMENT APPLICATION

Name of Escrow Company:_____

Escrow Agent License Number:_____

1. Exact Full Name:

_____

(Please print or type) First Name Middle Name Last Name

(Do not use initials or nicknames)

Title of position to be filled in connection with the preparation of this employment application.

_____

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

Note: Attach separate schedule if space is not adequate.

3. Residence addresses for the last 10 years:

From	To	Street	City	State
	Present			

Note: Attach separate schedule if space is not adequate.

4. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily, or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

Date of Suit:_____

Location of Court (City, County, State):_____

Nature of Suit:_____

Note: Attach a certified copy of any order, judgment, or decree.

5. Have you ever been refused a license to engage in any business in this state or any other state, or had any such license suspended or revoked?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:
State:_____Title of State Department:_____
Nature of License and Number:_____
Note: Attach a certified copy of any order, judgment, or decree.

6. Have you ever been convicted of or pleaded nolo contendere to a crime other than minor traffic citations that do not constitute a misdemeanor or felony offense?

Note: "Convicted" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

( ) Yes ( ) No

If the answer is "Yes," please complete the following:
Date of Case:_____
Location of Court (City, County, State):_____
Nature of Case:_____
Note: Attach a certified copy of any order, judgment, or decree.

7. Have you ever been a defendant in a civil court action other than divorce, condemnation, or personal injury?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:
Date of Suit:_____
Location of Court (City, County, State):_____
Nature of Suit:_____
Note: Attach a certified copy of any order, judgment, or decree.

8. Have you ever changed your name or ever been known by any name other than that herein listed?

(**Including a woman's maiden name**)

( ) Yes ( ) No

If so, explain. Change in name through marriage or court order should also be listed.

EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.

_____

_____

9. Have you ever done business under a fictitious firm name either as an individual or in the partnership or corporate form?

( ) Yes ( ) No

If the answer is "Yes," set forth particulars:

_____

_____

10. Have you ever been a subject of a bankruptcy or a petition in bankruptcy?

( ) Yes ( ) No

If the answer is "Yes," give date, title of case, location of bankruptcy filing:

_____

_____

_____

11. Have you ever been refused a bond, or have you ever had a bond revoked or canceled?

( ) Yes ( ) No

If the answer is "Yes," give details:

_____

_____

12. In what capacity will you be employed? _____

(e.g., Clerk, Escrow Officer, Receptionist, etc.)

13. Do you expect to be a party to, or broker or salesperson in connection with escrows conducted by the escrow company which is employing you?

( ) Yes ( ) No

If the answer is "Yes," please explain:

_____

_____

_____

Note: Attach separate schedule if space is not adequate.

VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement of Identity and Employment Application; that I have read and signed said Statement of Identity and Employment Application and know the contents thereof, including all exhibits attached thereto, and that the statements made therein, including any exhibits attached thereto, are true.

Any person who knows or should have known of a violation of this section shall immediately report the violation in writing to the commissioner.

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at_____
(City)

_____
(County) (State)

this_____day of_____, 20 __.

_____
(Signature of Declarant)

SEC. 4. Section 17700 of the Financial Code is amended to read:

17700. Any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall, upon conviction, be fined not more than ten thousand dollars ($10,000), imprisoned in a county jail for not more than one year, imprisoned in the state prison, or be punished by both that fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 17423.

SEC. 5. Section 80174 of the Food and Agricultural Code is amended to read:

80174. A second conviction shall be punishable by a fine of not less than three hundred dollars ($300), nor more than five thousand dollars ($5,000), for each violation, by imprisonment in a county jail for not more than one year, by imprisonment in the state prison, or by both that fine and imprisonment, and each violation shall constitute a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

SEC. 6. Section 1368 of the Government Code is amended to read:

1368. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 7. Section 3108 of the Government Code is amended to read:

3108. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 8. Section 51018.7 of the Government Code is amended to read:

51018.7. (a) Any person who willfully and knowingly violates any provision of this chapter or a regulation issued pursuant thereto shall, upon conviction, be subject, for each offense, to a fine of not more than twenty-five thousand dollars ($25,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment.

(b) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by federal or state law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than five thousand dollars ($5,000), imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

SEC. 8.5. Section 25180.7 of the Health and Safety Code is amended to read:

25180.7. (a) Within the meaning of this section, a "designated government employee" is any person defined as a "designated employee" by Government Code Section 82019, as amended.

(b) Any designated government employee who obtains information in the course of his or her official duties revealing the illegal discharge or threatened illegal discharge of a hazardous waste within the geographical area of his or her jurisdiction and who knows that the discharge or threatened discharge is likely to cause substantial injury to the public health or safety must, within 72 hours, disclose that information to the local Board of Supervisors and to the local health officer. No disclosure of information is required under this subdivision when otherwise prohibited by law, or when law enforcement personnel have determined that this disclosure would adversely affect an ongoing criminal investigation, or when the information is already general public knowledge within the locality affected by the discharge or threatened discharge.

(c) Any designated government employee who knowingly and intentionally fails to disclose information required to be disclosed under subdivision (b) shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison. The court may also impose upon the person a fine of not less than five thousand dollars ($5000) or more than twenty-five thousand dollars ($25,000). The felony conviction for violation of this section shall require forfeiture of government employment within thirty days of conviction.

(d) Any local health officer who receives information pursuant to subdivision (b) shall take appropriate action to notify local news media and shall make that information available to the public without delay.

SEC. 9. Section 44209 of the Health and Safety Code is amended to read:

44209. Any person who falsifies any test record or report which has been submitted to any other person, the department, or the state board pursuant to this chapter is subject to punishment by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 10. Section 100895 of the Health and Safety Code is amended to read:

100895. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this article.

(2) Has in his or her possession any record required to be maintained pursuant to this article that has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this article.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this article.

(b) A second or subsequent violation of subdivision (a) is punishable by imprisonment in the state prison for 16, 20, or 24 months or in a county jail for not more than one year, by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both that imprisonment and fine.

(c) An ELAP certified or NELAP accredited laboratory, upon suspension, revocation, or withdrawal of its ELAP certification or NELAP accreditation, shall do all of the following:

(1) Discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, or their materials that contain reference to their past certification or accreditation status.

(2) Return its ELAP certificate or its NELAP accreditation to the department.

(3) Cease all testing of samples for regulatory purposes.

(d) The penalties cited in subdivisions (a) and (b) shall also apply to NELAP accredited laboratories.

SEC. 11. Section 116730 of the Health and Safety Code is amended to read:

116730. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record required to be maintained pursuant to this chapter that has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this chapter.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter in response to an imminent and substantial danger.

(5) Violates an order issued by the department pursuant to this chapter that has a substantial probability of presenting an imminent danger to the health of persons.

(6) Operates a public water system without a permit issued by the department pursuant to this chapter.

(b) A second or subsequent violation of subdivision (a) is punishable by imprisonment in the state prison for 16, 20, or 24 months or imprisonment in a county jail for not more than one year, by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both that imprisonment and fine.

SEC. 12. Section 145 of the Military and Veterans Code is amended to read:

145. A person who, after publication of the proclamation authorized by Section 143, joins, participates or takes any part in a rebellion, insurrection, tumult or riot, or who is party to any conspiracy or combination to resist by force the execution of the laws or who resists or aids in resisting the execution of process in any county or city declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the Governor to quell or suppress an insurrection, is punishable by a fine of not less than one thousand dollars ($1,000), or by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by both that fine and imprisonment.

SEC. 13. Section 1672 of the Military and Veterans Code is amended to read:

1672. Any person who is guilty of violating Section 1670 or 1671 is punishable as follows:

(a) If the act or failure to act causes the death of any person, a person violating this section is punishable by death or imprisonment in the state prison for life without possibility of parole. The penalty shall be determined pursuant to the provisions of Sections 190.3 and 190.4 of the Penal Code. If the act or failure to act causes great bodily injury to any person, a person violating this section is punishable by life imprisonment without possibility of parole.

(b) If the act or failure to act does not cause the death of, or great bodily injury to, any person, the person violating this section is punishable by imprisonment in the state prison for two, four, or six years, by a fine of not more than ten thousand dollars ($10,000), or by both that imprisonment and fine. However, if a person so acts or so fails to act with the intent to hinder, delay, or interfere with the preparation of the United States or of any state for defense or for war, or with the prosecution of war by the United States, or with the rendering of assistance by the United States to any other nation in connection with that nation's defense, the person is punishable by a fine of not more than ten thousand dollars ($10,000), imprisonment in the state prison for three, five, or seven years, or by both that fine and imprisonment.

SEC. 14. Section 8285 of the Public Utilities Code is amended to read:

8285. Any person or corporation, through its directors, officers, or agents, which falsely represents a business as a women, minority, or disabled veteran business enterprise in the procurement of, or attempt to procure, contracts from an electrical, gas, or telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000), or a commission-regulated subsidiary or affiliate subject

to this article, shall be punished by a fine of not more than five thousand dollars ($5,000), by imprisonment in a county jail for not more than one year or in the state prison, or by both that fine and imprisonment. In the case of a corporation, the fine or imprisonment, or both, shall be imposed on every director, officer, or agent responsible for the false statements.

SEC. 15. Section 7093.6 of the Revenue and Taxation Code is amended to read:

7093.6. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(k) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

SEC. 16. Section 9278 of the Revenue and Taxation Code is amended to read:

9278. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 3 (commencing with Section 8601), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 9255. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(k) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

SEC. 17. Section 18631.7 of the Revenue and Taxation Code is amended to read:

18631.7. (a) Any check casher engaged in the trade or business of cashing checks that, in the course of that trade or business, cashes checks totaling more than ten thousand dollars ($10,000) in one transaction or two or more transactions for the same person within the calendar year, shall file an informational return with the Franchise Tax Board with respect to that transaction or transactions.

(b) The return required in subdivision (a) shall be filed no later than 90 days after the end of the calendar year and in the form and manner prescribed by the Franchise Tax Board, and shall, at a minimum, contain both of the following:

(1) The name, address, taxpayer identification number, and any other identifying information of the person presenting the check that the Franchise Tax Board deems necessary.

(2) The amount and date of the transaction or transactions.

(c) For purposes of this section both of the following definitions apply:

(1) "Check casher" means any person as defined under Section 1789.31 of the Civil Code.

(2) "Checks" includes warrants, drafts, money orders, and other commercial paper serving the same purpose.

(d) With respect to a person who fails to file the report required by this section or fails to include all of the information required to be shown on that report, both of the following apply:

(1) Sections 6721 and 6724 of the Internal Revenue Code, as those sections read on January 1, 2005, apply, except that the "Franchise Tax Board" is substituted for the "secretary" in each place it appears in those sections.

(2) If the failure was willful, the person, upon conviction, shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) or, in the case of a corporation, not more than one hundred thousand dollars ($100,000), by imprisonment in a county jail for not more than one year, by imprisonment in the state prison, or by both that fine and imprisonment, together with the costs of prosecution.

SEC. 18. Section 19542.3 of the Revenue and Taxation Code is amended to read:

19542.3. Any person who willfully divulges or makes known software, as defined in paragraph (1) of subdivision (d) of Section 19504.5, to any person in violation of Section 19504.5 is punishable by imprisonment in a county jail for not more than one year, or in the state prison, at the discretion of the court, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment, at the

discretion of the court, together with the costs of investigation and prosecution.

SEC. 19. Section 43606 of the Revenue and Taxation Code is amended to read:

43606. Every person convicted of a felony for a violation of any of the provisions of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars ($5,000), by imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 20. Section 45955 of the Revenue and Taxation Code is amended to read:

45955. Every person convicted of a felony for a violation of any provision of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars ($5,000), by imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 21. Section 46705 of the Revenue and Taxation Code is amended to read:

46705. Every person convicted of a felony for a violation of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars ($5,000), by imprisonment in the state prison, or by both that fine and imprisonment in the discretion of the court, together with the cost of investigation and prosecution.

SEC. 22. Section 50156.18 of the Revenue and Taxation Code is amended to read:

50156.18. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(g) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable feepayer shall not relieve the other feepayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of the fee or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Chapter 8 of Article 2 (commencing with Section 50156). No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the feepayer or other person liable in respect of the fee.

(k) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

SEC. 23. 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 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, by imprisonment for not more than one year in a county jail, or by both that fine and imprisonment. 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, by imprisonment in the state prison for 16, 20, or 24 months, or by both that fine and imprisonment.

(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, by imprisonment in the state prison, or by both that fine and imprisonment. 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, by imprisonment in the state prison for two, four, or six years, or by both that fine and imprisonment.

(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 punished by a fine of not more than two hundred fifty thousand dollars ($250,000), imprisonment in the state prison for 5, 10, or 15 years, or by both that fine and imprisonment. 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 punishment shall be by a fine of not more than five hundred thousand dollars ($500,000), by imprisonment in the state prison for 10, 20, or 30 years, or by both that fine and imprisonment. 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), by imprisonment in the state prison for 16, 20, or 24 months, or by both that fine and imprisonment. 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, by imprisonment in the state prison for two, three, or four years, or by both that fine and imprisonment.

(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.

CHAPTER 348

An act to amend Sections 16809.3, 16809.4, and 16901 of, and to amend and repeal Section 16809 of, the Welfare and Institutions Code, relating to county health services.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 16809 of the Welfare and Institutions Code, as amended by Section 30 of Chapter 80 of the Statutes of 2005, is amended to read:

16809. (a) (1) The board of supervisors of a county that contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The governing board shall have responsibilities for specified health services to county residents certified eligible for those services by the county.

(2) The board of supervisors of a county that has contracted with the governing board pursuant to paragraph (1) may also contract with the

governing board for the delivery of health care and health-related services to county residents other than under the County Medical Services Program by adopting a resolution to that effect. The governing board shall have responsibilities for the delivery of specified health services to county residents as agreed upon by the governing board and the county. Participation by a county pursuant to this paragraph shall be voluntary, and funds shall be provided solely by the county.

(b) The governing board may contract with the department or any other person or entity to administer the County Medical Services Program.

(1) If the governing board contracts with the department to administer the County Medical Services Program, that contract shall include, but need not be limited to, all of the following:

(A) Provisions for the payment to participating counties for making eligibility determinations as determined by the governing board.

(B) Provisions for payment of expenses of the governing board.

(C) Provisions relating to the flow of funds from counties' vehicle license fees, sales taxes, and participation fees and the procedures to be followed if a county does not pay those funds to the program.

(D) Those provisions, as applicable, contained in the 1993–94 fiscal year contract with counties under the County Medical Services Program.

(E) Provisions for the department to administer the County Medical Services Program pursuant to regulations adopted by the governing board or as otherwise determined by the governing board.

(F) Provisions requiring that the governing board reimburse the state costs of providing administrative support to the County Medical Services Program in accordance with amounts determined between the governing board and the department.

(2) If the governing board does not contract with the department for administration of the County Medical Services Program, the governing board may contract with the department for specified services to assist in the administration of that program. Any contract with the department under this paragraph shall require that the governing board reimburse the state costs of providing administrative support.

(3) The department shall not be liable for any costs related to decisions of the governing board that are in excess of those set forth in the contract between the department and the governing board.

(c) Each county intending to participate in the County Medical Services Program pursuant to this section shall submit to the governing board a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year in which the county will participate in the County Medical Services Program.

(d) A county participating in the County Medical Services Program pursuant to this section, or a county contracting with the governing board pursuant to paragraph (2) or (3) of subdivision (a), or participating in a pilot project or contracting with the governing board for an alternative product pursuant to Section 16809.4, shall not be relieved of its indigent health care obligation under Section 17000.

(e) (1) The County Medical Services Program Account is established in the County Health Services Fund. The County Medical Services Program Account is continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years. The following amounts may be deposited in the account:

(A) Any interest earned upon money deposited in the account.

(B) Moneys provided by participating counties or appropriated by the Legislature to the account.

(C) Moneys loaned pursuant to subdivision (n).

(2) The methods and procedures used to deposit funds into the account shall be consistent with the methods used by the program during the 1993–94 fiscal year, unless otherwise determined by the governing board.

(f) Moneys in the program account shall be used by the governing board, or by the department if the department contracts with the governing board for this purpose, to pay for health care services provided to the persons meeting the eligibility criteria established pursuant to subdivision (j) and to pay the governing board expenses and program administrative costs. In addition, moneys in this account may be used to reimburse the department for state costs pursuant to subparagraph (F) of paragraph (1) of subdivision (b).

(g) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, governing board expenses, and program administrative costs.

(h) The governing board shall establish a reserve account for the purpose of depositing funds for the payment of claims and unexpected contingencies. Funds in the reserve account in excess of the amounts the governing board determines necessary for these purposes shall be available for expenditures in years when program expenditures exceed

program funds, and to augment the rates, benefits, or eligibility criteria under the program.

(i) (1) Counties shall pay participation fees as established by the governing board and their jurisdictional risk amount in a method that is consistent with that established in the 1993–94 fiscal year.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the governing board.

(3) Payments made pursuant to this subdivision shall be deposited in the program account, unless otherwise directed by the governing board.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus the additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

(B) For the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years, the state shall not be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus any additional cost increases for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

(C) (i) The governing board shall establish uniform eligibility criteria and benefits among all counties participating in the County Medical Services Program listed in paragraph (2). For counties that are not listed in paragraph (2) and that elect to participate pursuant to paragraph (1) of subdivision (a), the eligibility criteria and benefit structure may vary

from those of counties participating pursuant to paragraph (2) of subdivision (a).

(ii) Notwithstanding clause (i), the governing board may establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or for providing or paying for benefits under the County Medical Services Program, and may develop and implement alternative products with varying levels of eligibility criteria and benefits outside of the County Medical Services Program.

(2) For the 1991–92 fiscal year, and each year thereafter, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,150
Amador	620,264
Butte	5,950,593
Calaveras	913,959
Colusa	799,988
Del Norte	781,358
El Dorado	3,535,288
Glenn	787,933
Humboldt	6,883,182
Imperial	6,394,422
Inyo	1,100,257
Kings	2,832,833
Lake	1,022,963
Lassen	687,113
Madera	2,882,147
Marin	7,725,909
Mariposa	435,062
Mendocino	1,654,999
Modoc	469,034
Mono	369,309
Napa	3,062,967
Nevada	1,860,793
Plumas	905,192
San Benito	1,086,011
Shasta	5,361,013
Sierra	135,888
Siskiyou	1,372,034
Solano	6,871,127
Sonoma	13,183,359
Sutter	2,996,118
Tehama	1,912,299

Trinity	611,497
Tuolumne	1,455,320
Yuba	2,395,580

(3) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in subparagraph (A) plus the amount determined pursuant to subparagraph (B), minus the amount specified by the governing board as participation fees.

(A)

Jurisdiction	Amount
Merced	2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the governing board before a county is permitted to participate in the County Medical Services Program.

(4) The specific amounts and method of apportioning risk to each participating county may be adjusted by the governing board.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. Contracts of the department pursuant to this section shall have no force or effect unless they are approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) Third-party recoveries for services provided under this section may be pursued.

(n) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(o) Moneys appropriated from the General Fund to meet the state risk, as set forth in subparagraph (A) of paragraph (1) of subdivision (j), shall not be available for those counties electing to disenroll from the County Medical Services Program.

SEC. 2. Section 16809 of the Welfare and Institutions Code, as amended by Section 31 of Chapter 80 of the Statutes of 2005, is repealed.

SEC. 3. Section 16809.3 of the Welfare and Institutions Code is amended to read:

16809.3. (a) Beginning in the 1991–92 fiscal year, and in subsequent fiscal years, a county shall pay the amount listed below or as established by the governing board pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section 16809.4, to the governing board as a condition of participation in the County Medical Services Program administered pursuant to Section 16809:

Jurisdiction	Amount
Alpine	$ 661
Amador	17,107
Butte	459,610
Calaveras	30,401
Colusa	28,997
Del Norte	39,424
El Dorado	233,492
Glenn	33,989
Humboldt	430,851
Imperial	249,786
Inyo	18,950
Kings	195,053
Lake	150,278
Lassen	17,206
Madera	151,434
Marin	576,233
Mariposa	5,649
Mendocino	247,578
Modoc	9,688
Mono	25,469
Napa	142,767
Nevada	42,051
Plumas	23,796
San Benito	37,018
Shasta	294,369
Sierra	6,183
Siskiyou	48,956
Solano	809,548
Sonoma	718,947
Sutter	188,781
Tehama	79,950

Trinity	8,319
Tuolumne	34,947
Yuba	101,907

(b) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall pay the following amount listed below or as established by the governing board pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section 16809.4, to the governing board as a condition of participation in the County Medical Services Program, administered pursuant to Section 16809:

Jurisdiction	Amount
Merced	488,954
Placer	247,193
San Luis Obispo	358,571
Santa Cruz	678,868
Yolo	532,510

(c) (1) County amounts specified in subdivisions (a) and (b) shall be paid to the governing board in 12 equal monthly payments or as otherwise specified by the governing board. Subject to paragraphs (2) and (3), a county that does not pay the amounts specified in subdivision (a) or (b) may be terminated from participation in the program.

(2) A county may request, due to financial hardship, that payments specified under subdivisions (a) and (b) be delayed. The request shall be subject to the approval of the governing board.

(3) For the 1991–92 fiscal year and subsequent fiscal years, counties that enter the County Medical Services Program shall pay the amount specified in subdivision (a) or (b), as applicable, on a prorated basis, for the number of contracted months of participation in the County Medical Services Program.

(d) The payments required by subdivision (c) shall not be paid for with funds from the health account of the local health and welfare trust fund established pursuant to Section 17600.10.

SEC. 4. Section 16809.4 of the Welfare and Institutions Code is amended to read:

16809.4. (a) Counties voluntarily participating in the County Medical Services Program pursuant to Section 16809 may establish the County Medical Services Program Governing Board pursuant to procedures contained in this section. The governing board shall govern the County Medical Services Program.

(b) The membership of the governing board shall be comprised of all of the following:

(1) Three members who shall each be a member of a county board of supervisors.

(2) Three members who shall be county administrative officers.

(3) Two members who shall be county welfare directors.

(4) Two members who shall be county health officials.

(5) One member who shall be the Secretary of the Health and Welfare Agency, or his or her designee, and who shall serve as an ex officio, nonvoting member.

(c) The governing board may establish its own bylaws and operating procedures.

(d) The voting membership of the governing board shall meet all of the following requirements:

(1) All of the members shall hold office or employment in counties that participate in the County Medical Services Program.

(A) The three county supervisor members shall be elected by the boards of supervisors of the CMSP counties, with each county having one vote and convened at the call of the chair of the governing board.

(B) The three county administrative officers shall be elected by the administrative officers of the CMSP counties convened at the call of the chair of the governing board.

(C) The two county health officials shall be selected by the health officials of the CMSP counties convened at the call of the chair of the governing board.

(D) The two county welfare directors shall be elected by the welfare directors of the CMSP counties convened at the call of the chair of the governing board.

(2) Governing board members shall serve three-year terms.

(3) No two persons from the same county may serve as members of the governing board at the same time.

(4) The governing board may elect a permanent chair.

(e) (1) The governing board is hereby established with the following powers:

(A) Determine program eligibility and benefit levels.

(B) Establish reserves and participation fees.

(C) Establish procedures for the entry into, and disenrollment of counties from the County Medical Services Program. Disenrollment procedures shall be fair and equitable.

(D) Establish cost containment and case management procedures, including, but not limited to, alternative methods for delivery of care and alternative methods and rates from those used by the department.

(E) Sue and be sued in the name of the governing board.

(F) Apportion jurisdictional risk to each county.

(G) Utilize procurement policies and procedures of any of the participating counties as selected by the governing board.

(H) Make rules and regulations.

(I) Make and enter into contracts or stipulations of any nature with a public agency or person for the purposes of governing or administering the County Medical Services Program.

(J) Purchase supplies, equipment, materials, property, or services.

(K) Appoint and employ staff to assist the governing board.

(L) Establish rules for its proceedings.

(M) Accept gifts, contributions, grants, or loans from any public agency or person for the purposes of this program.

(N) Negotiate and set rates, charges, or fees with service providers, including alternative methods of payment to those used by the department.

(O) Establish methods of payment that are compatible with the administrative requirements of the department's fiscal intermediary during the term of any contract with the department for the administration of the County Medical Services Program.

(P) Use generally accepted accounting procedures.

(Q) Develop and implement procedures and processes to monitor and enforce the appropriate billing and payment of rates, charges, and fees.

(R) Investigate and pursue repayment of fees billed and paid through improper means, including, but not limited to, fraudulent billing and collection practices by providers.

(S) Pursue third-party recoveries and estate recoveries for services provided under the County Medical Services Program, including the filing and perfecting of liens to secure reimbursement for the reasonable value of benefits provided.

(T) Establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or for providing or paying for services.

(U) Establish provisions for payment to participating counties for making eligibility determinations, as determined by the governing board.

(V) Develop and implement alternative products with varying levels of eligibility criteria and benefits outside of the County Medical Services Program for counties contracting with the governing board for those products, provided that any such products shall be funded separately from the County Medical Services Program and shall not impair the financial stability of that program.

(2) The Legislature finds and declares that the amendment of subparagraph (N) of paragraph (1) in 1995, and the addition of

subparagraphs (Q), (R), (S), (T), and (U) in 2006, are declaratory of existing law.

(f) (1) The governing board shall be considered a "public entity" for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and a "local public entity" for purposes of Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code, but shall not be considered a "state agency" for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be exempt from that chapter. No participating county shall have any liability for civil judgments awarded against the County Medical Services Program or the governing board. Nothing in this paragraph shall be construed to expand the liability of the state with respect to the County Medical Services Program beyond that set forth in Section 16809. Nothing in this paragraph shall be construed to relieve any county of the obligation to provide health care to indigent persons pursuant to Section 17000, or the obligation of any county to pay its participation fees and share of apportioned and allocated risk.

(2) Before initiating any proceeding to challenge rates of payment, charges, or fees set by the governing board, to seek reimbursement or release of any funds from the County Medical Services Program, or to challenge any other action by the governing board, any prospective claimant shall first notify the governing board, in writing, of the nature and basis of the challenge and the amount claimed. The governing board shall consider the matter within 60 days after receiving the notice and shall promptly thereafter provide written notice of the governing board's decision. If the governing board contracts with the department for administration of the program in accordance with Section 16809, this paragraph shall have no application to provider audit appeals conducted pursuant to Article 1.5 (commencing with Section 51016) of Chapter 3 of Division 3 of Title 22 of the California Code of Regulations and shall apply to all claims not reviewed pursuant to Section 51003 or 51015 of Title 22 of the California Code of Regulations.

(3) All regulations adopted by the governing board shall clearly specify by reference the statute, court decision, or other provision of law that the governing board is seeking to implement, interpret, or make specific by adopting, amending, or repealing the regulation.

(4) No regulation adopted by the governing board is valid and effective unless the regulation meets the standards of necessity, authority, clarity, consistency, and nonduplication, as defined in paragraph (5).

(5) The following definitions govern the interpretation of this subdivision:

(A) "Necessity" means the record of the regulatory proceeding that demonstrates by substantial evidence the need for the regulation. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(B) "Authority" means the provision of law that permits or obligates the CMSP Governing Board to adopt, amend, or repeal a regulation.

(C) "Clarity" means that the regulation is written or displayed so that the meaning of the regulation can be easily understood by those persons directly affected by it.

(D) "Consistency" means being in harmony with, and not in conflict with, or contradictory to, existing statutes, court decisions, or other provisions of law.

(E) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that the governing board identify any state or federal statute or regulation that is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit the governing board from printing relevant portions of enabling legislation in regulations when the duplication is necessary to satisfy the clarity standard in subparagraph (C). This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

(g) The requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) shall apply to the meetings of the governing board, including meetings held pursuant to subdivision (i), except the board may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations with providers of health care services.

(h) (1) The governing board shall comply with the following procedures for public meetings held to eliminate or reduce the level of services, restrict eligibility for services, or adopt regulations:

(A) Provide prior public notice of those meetings.

(B) Provide that notice not less than 30 days prior to those meetings.

(C) Publish that notice in a newspaper of general circulation in each participating CMSP county.

(D) Include in the notice, at a minimum, the amount and type of each proposed change, the expected savings, and the number of persons affected.

(E) Either hold those meetings in the county seats of at least four regionally distributed CMSP participating counties, or, alternatively, hold two meetings in Sacramento County.

(2) For meetings held outside Sacramento County, the requirements for public meetings pursuant to this subdivision to eliminate or reduce

the level of services, or to restrict the eligibility for services or hear testimony regarding regulations to implement any of these service charges, are satisfied if at least three voting members of the governing board hold the meetings as required and report the testimony from those meetings to the full governing board at its next regular meeting. No action shall be taken at any meeting held outside Sacramento County pursuant to this paragraph.

(i) Records of the County Medical Services Program and of the governing board that relate to rates of payment or to the board's negotiations with providers of health care services or to the governing board's deliberative processes regarding either shall not be subject to disclosure pursuant to the Public Records Act (Chapter 5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(j) The following definitions shall govern the construction of this part, unless the context requires otherwise:

(1) "CMSP" or "program" means the County Medical Services Program, which is the program by which health care services are provided to eligible persons in those counties electing to participate in the CMSP pursuant to Section 16809.

(2) "CMSP county" means a county that has elected to participate pursuant to Section 16809 in the CMSP.

(3) "Governing Board" means the County Medical Services Program Governing Board established pursuant to this section.

SEC. 5. Section 16901 of the Welfare and Institutions Code is amended to read:

16901. "CMSP county" means a county that has elected to participate in the CMSP pursuant to Section 16809.

CHAPTER 349

An act to add Chapter 5.8 (commencing with Section 42359) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Chapter 5.8 (commencing with Section 42359) is added to Part 3 of Division 30 of the Public Resources Code, to read:

Chapter 5.8. Plastic Food and Beverage Containers

42359. The Legislature finds and declares that it is the public policy of the state that environmental marketing claims, whether explicit or implied, should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers about the environmental impact of compostable plastic food or beverage containers. For consumers to have accurate and useful information about the environmental impact of compostable plastic food or beverage containers, environmental marketing claims should adhere to uniform and recognized standards, including those standard specifications established by the American Society for Testing and Materials.

42359.5. For purposes of this chapter, the following definitions apply:

(a) "ASTM" means the American Society for Testing and Materials.

(b) "ASTM standard specification" means ASTM Standard Specification for Compostable Plastics (D6400-04).

(c) "Plastic food or beverage container" means plastic packaging for a finished product that contains food or drink items, or utensils, for retail sale.

(d) "Manufacturer" means a person, firm, association, partnership, or corporation that produces a plastic food or beverage container.

(e) "Supplier" means a person who does one or more of the following:

(1) Sells, offers for sale, or offers for promotional purposes, a plastic food or beverage container that is used by a person to contain a product.

(2) Takes title to a plastic food or beverage container produced either domestically or in a foreign country, that is purchased for resale or promotional purposes.

42359.6. (a) A person shall not sell a plastic food or beverage container in this state that is labeled with the term "compostable," "biodegradable," "degradable," or any form of those terms, or in anyway imply that the container will break down in a landfill, composting, marine, or other natural terrestrial environment, unless, at the time of the sale, the plastic food or beverage container meets the ASTM standard specification for the term used on the label.

(b) A manufacturer or supplier, upon the request of a member of the public, shall submit to that member, within 90 days of the request, information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

CHAPTER 350

An act to amend Sections 725, 2241, 2242, and 2242.1 of, and to repeal and add Section 2241.5 of, the Business and Professions Code, and to amend Section 11156 of the Health and Safety Code, relating to healing arts.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

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

(a) The investigation and prosecution of pain management cases in California have evolved over the past 15 years.

(b) The Pain Patient's Bill of Rights and the Intractable Pain Treatment Act were created to ensure patients received adequate pain medication and to protect a physician and surgeon from being disciplined solely because of the amounts of controlled substances he or she prescribed or administered.

(c) California recognizes that prescription medication, including controlled substances, can play a critical role in the treatment of pain, and, in and of itself, is an insufficient basis to determine if a physician and surgeon has violated the standard of care in his or her treatment of pain management patients.

(d) Undertreatment of pain, including the use of opioids, is a continuing problem in the State of California, and some terms of the Intractable Pain Treatment Act are outdated and confusing.

(e) In recognition of the Medical Board of California's consumer protection mandates, and in an attempt to provide better treatment of pain patients, as well as protect the public through the appropriate investigation and prosecution of those who violate the standard of care when treating pain patients, the Legislature recognizes that it is time to reflect upon the current state of pain management to aid both those who treat pain patients, as well as those who investigate and prosecute physicians and surgeons.

SEC. 2. Section 725 of the Business and Professions Code is amended to read:

725. (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a

physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

SEC. 3. Section 2241 of the Business and Professions Code is amended to read:

2241. (a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under his or her instruction and supervision, under the following circumstances:

(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

(2) Treatment of addicts in state-licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

(d) (1) For purposes of this section and Section 2241.5, "addict" means a person whose actions are characterized by craving in combination with one or more of the following:

(A) Impaired control over drug use.

(B) Compulsive use.

(C) Continued use despite harm.

(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5.

SEC. 4. Section 2241.5 of the Business and Professions Code is repealed.

SEC. 5. Section 2241.5 is added to the Business and Professions Code, to read:

2241.5. (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

(2) Violates Section 2241 regarding treatment of an addict.

(3) Violates Section 2242 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs.

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), 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 controlled substances or dangerous 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 or the dispensing of the drugs to the

person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

SEC. 6. Section 2242 of the Business and Professions Code is amended to read:

2242. (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not

exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

SEC. 7. Section 2242.1 of the Business and Professions Code is amended to read:

2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.

(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.

(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242.

SEC. 8. Section 11156 of the Health and Safety Code is amended to read:

11156. (a) Except as provided in Section 2241 of the Business and Professions Code, no person shall prescribe for, or administer, or dispense a controlled substance to, an addict, or to any person representing himself or herself as such, except as permitted by this division.

(b) (1) For purposes of this section, "addict" means a person whose actions are characterized by craving in combination with one or more of the following:

(A) Impaired control over drug use.

(B) Compulsive use.

(C) Continued use despite harm.

(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section.

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 351

An act to amend Sections 56375.3, 56375.4, and 56425 of the Government Code, relating to local government.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 56375.3 of the Government Code is amended to read:

56375.3. (a) In addition to those powers enumerated in Section 56375, a commission shall do either of the following:

(1) Approve, after notice and hearing, the annexation to a city, and waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely, if all of the following are true:

(A) The annexation is initiated on or after January 1, 2000, and before January 1, 2014.

(B) The annexation is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the annexation proposal meets all of the requirements set forth in subdivision (b).

(2) Approve, after notice and hearing, the annexation to a city, subject to subdivision (a) of Section 57080, if all of the following are true:

(A) The annexation is initiated on or after January 1, 2014.

(B) The annexation is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the annexation proposal meets all of the requirements set forth in subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

(1) It does not exceed 150 acres in area, and that area constitutes the entire island.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the annexation or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section

33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

SEC. 2. Section 56375.4 of the Government Code is amended to read:

56375.4. (a) The authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to paragraph (1) of subdivision (a) of Section 56375.3 shall expire January 1, 2014. The period of time between January 1, 2000, and January 1, 2014, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3 for the same period of time as was remaining under that 14-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) Between January 1, 2000, and January 1, 2014, no new proposal involving the same or substantially the same territory as a proposal initiated pursuant to paragraph (1) of subdivision (a) of Section 56375.3 after January 1, 2000, shall be initiated for two years after the date of adoption by the commission of a resolution terminating proceedings.

SEC. 3. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) At least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence, or to update

an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be forwarded to the commission, and the commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement in the commission's final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(j) Subdivisions (b), (c), and (d) shall become inoperative as of January 1, 2008, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 352

An act to amend Section 6248 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 6248 of the Revenue and Taxation Code, as amended by Section 4 of Chapter 49 of the Statutes of 2006, is amended to read:

6248. (a) On and after the effective date of this section there shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this state, and which is brought into California within 12

months from the date of its purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occur:

(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.

(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.

(3) In the case of a vessel or aircraft, that vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.

(4) The vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.

(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of registration of that vehicle, vessel, or aircraft, with the proper authority, outside of this state.

(c) This section does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.

(d) The amendments made to this section by the act adding this subdivision do not apply to any vehicle, vessel, or aircraft that is either purchased, or is the subject of a binding purchase contract that is entered into, on or before the operative date of this subdivision.

(e) (1) Notwithstanding subdivision (a), aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state.

(2) This subdivision does not apply if, during the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an airplane or 25 hours of sailing time in the case of a vessel are logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by an authorized agent operating the aircraft or vessel on behalf of the registered owner of the aircraft or vessel. The calculation of airtime or sailing time logged on the aircraft or vessel does not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

(3) This subdivision applies to aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification on or after the operative date of this subdivision.

(f) The presumption set forth in subdivision (a) may be controverted by documentary evidence that the vehicle was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying dates of travel to and from the warranty or repair facility.

(g) The amendments made by Section 2 of Chapter 226 of the Statues of 2004 adding this subdivision shall become operative on October 1, 2004.

(h) The Legislative Analyst's Office shall conduct a study of the economic impacts of the amendments made to this section by the act adding this subdivision, and shall report its findings to the Legislature on or before June 30, 2006.

(i) This section shall remain in effect only until and including June 30, 2007, and as of July 1, 2007, is repealed.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 353

An act to amend Section 11713.3 of, and to add Section 11713.25 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 11713.3 of the Vehicle Code is amended to read:

11713.3. It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do any of the following:

(a) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle or parts or accessories to

new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(b) To prevent or require, or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership or the means by or through which the dealer finances the operation of the dealership, if the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and if a change in capital structure does not cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) To prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators, if the franchise was granted to the dealer in reliance upon the personal qualifications of that person.

(d) (1) Except as provided in subdivision (t), to prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor except that the consent shall not be unreasonably withheld.

(2) (A) For the transferring franchisee to fail, prior to the sale, transfer, or assignment of a franchisee or the sale, assignment, or transfer of all, or substantially all, of the assets of the franchised business or a controlling interest in the franchised business to another person, to notify the manufacturer or distributor of the franchisee's decision to sell, transfer, or assign the franchise. The notice shall be in writing and shall include all of the following:

(i) The proposed transferee's name and address.

(ii) A copy of all of the agreements relating to the sale, assignment, or transfer of the franchised business or its assets.

(iii) The proposed transferee's application for approval to become the successor franchisee. The application shall include forms and related information generally utilized by the manufacturer or distributor in reviewing prospective franchisees, if those forms are readily made available to existing franchisees. As soon as practicable after receipt of the proposed transferee's application, the manufacturer or distributor shall notify the franchisee and the proposed transferee of any information needed to make the application complete.

(B) For the manufacturer or distributor, to fail, on or before 60 days after the receipt of all of the information required pursuant to subparagraph (A), or as extended by a written agreement between the manufacturer or distributor and the franchisee, to notify the franchisee of the approval or the disapproval of the sale, transfer, or assignment of the franchise. The notice shall be in writing and shall be personally served or sent by certified mail, return receipt requested, or by guaranteed overnight delivery service that provides verification of delivery and shall be directed to the franchisee. Any proposed sale, assignment, or transfer shall be deemed approved, unless disapproved by the franchisor in the manner provided by this subdivision. If the proposed sale, assignment, or transfer is disapproved, the franchisor shall include in the notice of disapproval a statement setting forth the reasons for the disapproval.

(3) In any action in which the manufacturer's or distributor's withholding of consent under this subdivision or subdivision (e) is an issue, whether the withholding of consent was unreasonable is a question of fact requiring consideration of all the existing circumstances.

(e) To prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld or conditioned upon the release, assignment, novation, waiver, estoppel, or modification of any claim or defense by the dealer.

(f) To obtain money, goods, services, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and that other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) To require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability to be imposed by this article or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the board, if the referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.

(h) To increase prices of motor vehicles that the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer is evidence of each such order. In the event of manufacturer price reductions, the amount of the reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price

to the dealer. Price reductions apply to all vehicles in the dealer's inventory that were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. This subdivision does not apply to price changes caused by either of the following:

(1) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law.

(2) Revaluation of the United States dollar in the case of a foreign-make vehicle.

(i) To fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in the dealer's inventory at the time of introduction of new model vehicles.

(j) To deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same line-make within the relevant market area.

(*l*) To modify, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2.

(m) To employ a person as a representative who has not been licensed pursuant to Article 3 (commencing with Section 11900) of Chapter 4 of Division 5.

(n) To deny any dealer the right of free association with any other dealer for any lawful purpose.

(o) (1) To compete with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area.

(2) A manufacturer, branch, or distributor or any entity that controls or is controlled by, a manufacturer, branch, or distributor, shall not, however, be deemed to be competing in the following limited circumstances:

(A) Owning or operating a dealership for a temporary period, not to exceed one year. However, after a showing of good cause by a manufacturer, branch, or distributor that it needs additional time to operate a dealership in preparation for sale to a successor independent

franchisee, the board may extend the time period. The board shall extend the time period until December 31, 2002, for any manufacturer that meets all of the following requirements:

(i) The manufacturer has no more than 25 franchisees in the state and those franchisees collectively operate dealership facilities in at least 15 counties of the state.

(ii) All of the dealership facilities operated by the manufacturer's franchisees in the state trade exclusively in the manufacturer's line-make.

(iii) No fewer than one-half of the manufacturer's franchisees in the state own and operate two or more dealership facilities in their assigned areas of responsibility.

(iv) The manufacturer holds a temporary ownership interest in no more than two dealerships in the state that are located in the relevant market area of any other franchisee of the same line-make not owned, in whole or part, by the manufacturer.

(B) Owning an interest in a dealer as part of a bona fide dealer development program that satisfies all of the following requirements:

(i) The sole purpose of the program is to make franchises available to persons lacking capital, training, business experience, or other qualities ordinarily required of prospective franchisees and the dealer development candidate is an individual who is unable to acquire the franchise without assistance of the program.

(ii) The dealer development candidate has made a significant investment subject to loss in the franchised business of the dealer.

(iii) The program requires the dealer development candidate to manage the day-to-day operations and business affairs of the dealer and to acquire, within a reasonable time and on reasonable terms and conditions, beneficial ownership and control of a majority interest in the dealer and disassociation of any direct or indirect ownership or control by the manufacturer, branch, or distributor.

(C) Owning a wholly owned subsidiary corporation of a distributor that sells motor vehicles at retail, if, for at least three years prior to January 1, 1973, the subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of vehicles at retail.

(3) (A) Every manufacturer, branch, and distributor that owns or operates a dealership in the manner described in subparagraph (A) of paragraph (2) shall give written notice to the board, within 10 days, each time it commences or terminates operation of a dealership and each time it acquires or divests itself of an ownership interest.

(B) Every manufacturer, branch, and distributor that owns an interest in a dealer in the manner described in subparagraph (B) of paragraph (2) shall give written notice to the board, annually, of the name and location of each dealer in which it has an ownership interest.

(p) To unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted to its franchisees to make warranty adjustments with retail customers.

(q) To sell vehicles to persons not licensed under this chapter for resale.

(r) To fail to affix an identification number to any park trailer, as described in Section 18009.3 of the Health and Safety Code, that is manufactured on or after January 1, 1987, and that does not clearly identify the unit as a park trailer to the department. The configuration of the identification number shall be approved by the department.

(s) To dishonor a warranty, rebate, or other incentive offered to the public or a dealer in connection with the retail sale of a new motor vehicle, based solely upon the fact that an autobroker arranged or negotiated the sale. This subdivision shall not prohibit the disallowance of that rebate or incentive if the purchaser or dealer is ineligible to receive the rebate or incentive pursuant to any other term or condition of a rebate or incentive program.

(t) To exercise a right of first refusal or any other right requiring a franchisee or any owner thereof to sell, transfer, or assign to the franchisor, or to any nominee of the franchisor, all or any material part of the franchised business or of the assets thereof unless all of the following requirements are met:

(1) The franchise authorizes the franchisor to exercise a right of first refusal to acquire the franchised business or assets thereof in the event of a proposed sale, transfer, or assignment.

(2) The franchisor gives written notice of its exercise of the right of first refusal no later than 45 days after the franchisor receives all of the information required pursuant to subparagraph (A) of paragraph (2) of subdivision (d).

(3) The sale, transfer, or assignment being proposed relates to not less than all or substantially all of the assets of the franchised business or to a controlling interest in the franchised business.

(4) The proposed transferee is neither a family member of an owner of the franchised business, nor a managerial employee of the franchisee owning 15 percent or more of the franchised business, nor a corporation, partnership, or other legal entity owned by the existing owners of the franchised business. For purposes of this paragraph, a "family member" means the spouse of an owner of the franchised business, the child, grandchild, brother, sister, or parent of an owner, or a spouse of one of those family members. Nothing contained in this paragraph limits the rights of the franchisor to disapprove a proposed transferee as provided in subdivision (d).

(5) Upon the franchisor's exercise of the right of first refusal, the consideration paid by the franchisor to the franchisee and owners of the franchised business shall equal or exceed all consideration that each of them were to have received under the terms of, or in connection with, the proposed sale, assignment, or transfer, and the franchisor shall comply with all the terms and conditions of the agreement or agreements to sell, transfer, or assign the franchised business.

(6) The franchisor shall reimburse the proposed transferee for any expenses paid or incurred by the proposed transferee in evaluating, investigating, and negotiating the proposed transfer to the extent those expenses do not exceed the usual, customary, and reasonable fees charged for similar work done in the area in which the franchised business is located. These expenses include, but are not limited to, legal and accounting expenses, and expenses incurred for title reports and environmental or other investigations of any real property on which the franchisee's operations are conducted. The proposed transferee shall provide the franchisor a written itemization of those expenses, and a copy of all nonprivileged reports and studies for which expenses were incurred, if any, within 30 days of the proposed transferee's receipt of a written request from the franchisor for that accounting. The franchisor shall make payment within 30 days of exercising the right of first refusal.

(u) (1) To unfairly discriminate in favor of any dealership owned or controlled, in whole or part, by a manufacturer or distributor or an entity that controls or is controlled by the manufacturer or distributor. Unfair discrimination includes, but is not limited to, the following:

(A) The furnishing to any franchisee or dealer that is owned or controlled, in whole or part, by a manufacturer, branch, or distributor of any of the following:

(i) Any vehicle that is not made available to each franchisee pursuant to a reasonable allocation formula that is applied uniformly, and any part or accessory that is not made available to all franchisees on an equal basis when there is no reasonable allocation formula that is applied uniformly.

(ii) Any vehicle, part, or accessory that is not made available to each franchisee on comparable delivery terms, including the time of delivery after the placement of an order. Differences in delivery terms due to geographic distances or other factors beyond the control of the manufacturer, branch, or distributor shall not constitute unfair competition.

(iii) Any information obtained from a franchisee by the manufacturer, branch, or distributor concerning the business affairs or operations of any franchisee in which the manufacturer, branch, or distributor does not have an ownership interest. The information includes, but is not

limited to, information contained in financial statements and operating reports, the name, address, or other personal information or buying, leasing, or service behavior of any dealer customer, and any other information which, if provided to a franchisee or dealer owned or controlled by a manufacturer or distributor, would give that franchisee or dealer a competitive advantage. This clause does not apply if the information is provided pursuant to a subpoena or court order, or to aggregated information made available to all franchisees.

(B) Referring a prospective purchaser or lessee to a dealer in which a manufacturer, branch, or distributor has an ownership interest, unless the prospective purchaser or lessee resides in the area of responsibility assigned to that dealer or the prospective purchaser or lessee requests to be referred to that dealer.

(2) Nothing in this subdivision shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees or assisting those franchisees during the course of the franchise relationship as part of a program or programs to make franchises available to persons lacking capital, training, business experience, or other qualifications ordinarily required of prospective franchisees.

(v) (1) To access, modify, or extract information from a confidential dealer computer record, as defined in Section 11713.25, without obtaining the prior written consent of the dealer and without maintaining administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information.

(2) Paragraph (1) does not limit a duty that a dealer may have to safeguard the security and privacy of records maintained by the dealer.

(w) (1) To use electronic, contractual, or other means to prevent or interfere with any of the following:

(A) The lawful efforts of a dealer to comply with federal and state data security and privacy laws.

(B) The ability of a dealer to do either of the following:

(i) Ensure that specific data accessed from the dealer's computer system is within the scope of consent specified in subdivision (v).

(ii) Monitor specific data accessed from or written to the dealer's computer system.

(2) Paragraph (1) does not limit a duty that a dealer may have to safeguard the security and privacy of records maintained by the dealer.

(x) As used in this section, "area of responsibility" is a geographic area specified in a franchise that is used by the franchisor for the purpose of evaluating the franchisee's performance of its sales and service obligations.

SEC. 2. Section 11713.25 is added to the Vehicle Code, to read:

11713.25. (a) A computer vendor shall not do any of the following:

(1) Access, modify, or extract information from a confidential dealer computer record or personally identifiable consumer data from a dealer without first obtaining express written consent from the dealer and without maintaining administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information.

(2) (A) Except as provided in subparagraph (B), require a dealer as a condition of doing or continuing to do business, to give express consent to perform the activities specified in paragraph (1).

(B) Express consent may be required as a condition of doing or continuing to do business if the consent is limited to permitting access to personally identifiable consumer data to the extent necessary to do any of the following:

(i) To protect against, or prevent actual or potential fraud, unauthorized transactions, claims, or other liability, or to protect against breaches of confidentiality or security of consumer records.

(ii) To comply with institutional risk control or to resolve consumer disputes or inquiries.

(iii) To comply with federal, state, or local laws, rules, and other applicable legal requirements, including lawful requirements of a law enforcement or governmental agency.

(iv) To comply with lawful requirements of a self-regulatory organization or as necessary to perform an investigation on a matter related to public safety.

(v) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state, or local authorities.

(vi) To make other use of personally identifiable consumer data with the express written consent of the consumer that has not been revoked by the consumer.

(3) Use electronic, contractual, or other means to prevent or interfere with the lawful efforts of a dealer to comply with federal and state data security and privacy laws and to maintain the security, integrity, and confidentiality of confidential dealer computer records, including, but not limited to, the ability of a dealer to monitor specific data accessed from or written to the dealer computer system. Waiver of this subdivision or purported consents authorizing the activities proscribed by the subdivision is void.

(b) A dealer shall have the right to prospectively revoke an express consent by providing a 10-day written notice to the computer vendor to whom the consent was provided or on any shorter period of notice agreed to by the computer vendor and the dealer. An agreement that requires a dealer to waive its right to prospectively revoke an express consent is void.

(c) For the purposes of this section, the following terms mean as follows:

(1) "Confidential dealer computer record" means a computer record residing on the dealer's computer system that contains, in whole or in part, any personally identifiable consumer data, or the dealer's financial or other proprietary data.

(2) "Computer vendor" means a person, other than a manufacturer, manufacturer branch, distributor, or distributor branch, who in the ordinary course of that person's business configured, sold, leased, licensed, maintained, or otherwise made available to a dealer, a dealer computer system.

(3) "Dealer computer system" means a computer system or computerized application primarily designed for use by and sold to a motor vehicle dealer that, by ownership, lease, license, or otherwise, is used by and in the ordinary course of business of a dealer.

(4) "Express consent" means the unrevoked written consent signed by a dealer that specifically describes the data that may be accessed, the means by which it may be accessed, the purpose for which it may be used, and the person or class of persons to whom it may be disclosed.

(5) "Personally identifiable consumer data" means information that is any of the following:

(A) Information of the type specified in subparagraph (A) of paragraph (6) of subdivision (e) of Section 1798.83 of the Civil Code.

(B) Information that is nonpublic personal information as defined in Section 313.3(n)(1) of Title 16 of the Code of Federal Regulations.

(C) Information that is nonpublic personal information as defined in subdivision (a) of Section 4052 of the Financial Code.

(d) This section does not limit a duty that a dealer may have to safeguard the security and privacy of records maintained by the dealer.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 354

An act to add Section 12687.5 to the Water Code, relating to water.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

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

SECTION 1. Section 12687.5 is added to the Water Code, to read:

12687.5. (a) The state may provide subvention funds in accordance with Section 12585.7 to the Counties of Monterey and Santa Cruz, or to local agencies in those counties, for the project for flood control on the Pajaro River in the Counties of Monterey and Santa Cruz, authorized by the Flood Control Act of 1966 (Public Law 89-789), that is substantially in accordance with the recommendations of the Chief of Engineers of the United States Army Corps of Engineers in House Document 491, 89th Congress, as follows:

(1) At an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature upon the recommendations and advice of the department.

(2) Upon a specific written determination by the department that the project meets the requirements of Section 12582.7.

(b) The state assumes no liability for damages that may result from the project by either of the following:

(1) Authorizing the provision of subvention funds in accordance with this section.

(2) The appropriation by the Legislature of these subvention funds upon the recommendations and advice of the department.

(c) A county or local agency may receive the subvention funds only if it enters into an agreement with the department pursuant to which the county or local agency agrees to indemnify and hold and save harmless the state, its officers, agents, and employees for any and all liability for damages that may result from the project.

(d) For the purposes of this section, "liability for damages" includes, but is not limited to, liability for damages relating to the construction or operation of the project or the failure of the project to operate as intended.

CHAPTER 355

An act to amend Section 31641.2 of, and to add Sections 20899.5, 23007.5, 31640.7, 34095, 45309.5, and 50033 to, the Government Code, relating to retirement.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

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

SECTION 1. Section 20899.5 is added to the Government Code, to read:

20899.5. (a) An elective officer of a contracting agency that is a city, county, or city and county shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5, 34095, or 50033.

(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 20909.

SEC. 2. Section 23007.5 is added to the Government Code, to read:

23007.5. (a) Notwithstanding any other provision of law:

(1) A county shall not grant credit for service to an elective officer or member of the board of supervisors for service that the elective officer or member has not performed.

(2) A county shall not pay contributions for credit for service if an elective officer or member has not performed the service, regardless of the fact that the elective officer or member of the board of supervisors may personally elect to contribute for additional credit for service.

(b) The prohibition provided by this section does not preclude an elective officer or member of the board of supervisors from choosing to receive credit for service in a retirement system by paying his or her own contributions for that purpose pursuant to the applicable provisions of the retirement system.

SEC. 3. Section 31640.7 is added to the Government Code, to read:

31640.7. (a) A member of a retirement system shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5 or 50033.

(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 31658.

SEC. 4. Section 31641.2 of the Government Code is amended to read:

31641.2. Any member of the retirement system who elects pursuant to Section 31641.1 to make contributions and receive credit as service for time for which he or she claims credit because of public service shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump sum payment or by installment payments over a period not to exceed five years, an amount equal to the sum of:

(a) Twice the contributions he or she would have made to the retirement fund if he or she had been a member during the same length of time as that for which he or she has elected to receive credit as service, computed by applying the rate of contribution first applicable to him or her upon commencement of his or her membership in this system to the

monthly compensation first earnable by him or her at the time as provided in Section 31641.3, multiplied by the number of months for which he or she has elected to receive credit for county service, including time, if any, prior to the establishment of the system, and which will constitute current service under this system.

(b) The "regular interest" that would have accrued to the member contributions if they had been made on the date used to determine on what earnable compensation contributions pursuant to this section shall be based, from that date until the completion of payment of those contributions, computed at the current interest rate.

(c) Except as prohibited by Section 31640.7, the governing body by a four-fifths vote may provide that it shall make on behalf of officers and employees eligible to receive credit for prior service under this chapter, and who so elect prior to filing an application for retirement, part of the contributions specified in paragraphs (a) and (b) of this section. The contributions made by a governmental agency pursuant to this section shall be available only for purposes of retirement for service or for disability and a member resigning from county service shall be entitled to withdraw only that portion of his or her accumulated contributions made by him or her.

SEC. 5. Section 34095 is added to the Government Code, to read:

34095. (a) Notwithstanding any other provision of law:

(1) The legislative body of a city shall not grant credit for service to an elective officer for service that the elective officer has not performed.

(2) The legislative body of a city shall not pay contributions for credit for service if an elective officer has not performed the service, regardless of the fact that the elected officer may personally elect to contribute for additional credit for service.

(b) The prohibition provided by this section does not preclude an elective officer from choosing to receive credit for service in a retirement system by paying his or her own contributions for that purpose pursuant to the applicable provisions of the retirement system.

SEC. 6. Section 45309.5 is added to the Government Code, to read:

45309.5. A member of a pension or retirement system established pursuant to this chapter shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 34095 or Section 50033.

SEC. 7. Section 50033 is added to the Government Code, to read:

50033. (a) Notwithstanding any other provision of law:

(1) The legislative body of a city, county, or city and county shall not grant credit for service to an elective officer for service that the elective officer has not performed.

(2) The legislative body of a city, county, or city and county shall not pay contributions for credit for service if an elective officer has not performed the service, regardless of the fact that the elected officer may personally elect to contribute for additional credit for service.

(b) The prohibition provided by this section does not preclude an elective officer from choosing to receive credit for service in a retirement system by paying his or her own contributions for that purpose pursuant to the applicable provisions of the retirement system.

CHAPTER 356

An act to add Section 22317.2 to the Financial Code, relating to loans.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 22317.2 is added to the Financial Code, to read:

22317.2. (a) A licensee may collect a fee for use of an automated valuation model result prepared by a third party not to exceed the actual cost paid to the third party for a written automated valuation model result in lieu of the appraisal provided for in Section 22317. The borrower shall not be charged for both an automated valuation model result and an appraisal as defined in Section 22317 for the same property in a single transaction. Only one fee for providing an automated valuation model result or an appraisal for the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior delivery of an automated valuation model result or an appraisal. However, if a fee for an automated valuation model result has been paid, an appraisal fee minus the amount that has been paid by the borrower for the automated valuation model result may be charged for an appraisal for the same real property within one year if the borrower has obtained a new or additional loan. The fee is not included in charges as defined in this division or in determining the maximum charges that may be made under this article.

(b) A licensee in a loan transaction secured by real property shall provide notice as described in this section to a borrower of the borrower's right to receive a copy of the automated valuation model result, provided he or she has paid a fee for the automated valuation model result. A borrower's written request for a copy of an automated valuation model result shall be received by the licensee no later than 90 days after (1) the

licensee has provided notice of the action taken on the application, including a notice of incompleteness, or (2) the application has been withdrawn.

(c) The licensee shall mail or deliver a copy of an automated valuation model result within 15 days after receiving a written request from the borrower, or within 15 days after receiving the automated valuation model result, whichever occurs later.

(d) Where the loan is proposed to be secured by real property, the notice of the borrower's right to a copy of the automated valuation model result shall be given in at least 10-point boldface type, as a separate document in a form that the borrower may retain, and no later than 15 days after the licensee receives the written application. The notice shall specify that the borrower's request for the automated valuation model result must be in writing and must be received by the licensee no later than 90 days after the licensee provides notice of the action taken on the application or a notice of incompleteness, or in the case of a withdrawn application, 90 days after the withdrawal. The notice shall also include the following statement: "An automated valuation model is not an appraisal. It is a computerized property valuation system that is used to derive a real property value." An address to which the request should be sent shall be specified in the notice. Release of the automated valuation model result to the borrower may be conditioned upon payment of the fee.

(e) This section does not apply to automated valuation model results obtained by licensees on property owned by the licensee, nor to automated valuation model results obtained by the licensee in anticipation of modifying any existing loan agreement if the licensee does not charge for the use of the automated valuation model result.

(f) For purposes of this section, an "automated valuation model" is a computerized property valuation system that is used to derive a real property value.

(g) Nothing in this section authorizes the use of an automated valuation model result in lieu of an appraisal that is required under state or federal law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 357

An act to amend Section 1282.4 of the Code of Civil Procedure, relating to arbitration.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 1282.4 of the Code of Civil Procedure, as amended by Section 1 of Chapter 607 of the Statutes of 2005, is amended to read:

1282.4. (a) A party to the arbitration has the right to be represented by an attorney at any proceeding or hearing in arbitration under this title. A waiver of this right may be revoked; but if a party revokes that waiver, the other party is entitled to a reasonable continuance for the purpose of procuring an attorney.

(b) Notwithstanding any other provision of law, including Section 6125 of the Business and Professions Code, an attorney admitted to the bar of any other state may represent the parties in the course of, or in connection with, an arbitration proceeding in this state, provided that the attorney, if not admitted to the State Bar of California, satisfies all of the following:

(1) He or she timely serves the certificate described in subdivision (c).

(2) The attorney's appearance is approved in writing on that certificate by the arbitrator, the arbitrators, or the arbitral forum.

(3) The certificate bearing approval of the attorney's appearance is filed with the State Bar of California and served on the parties as described in this section.

(c) Within a reasonable period of time after the attorney described in subdivision (b) indicates an intention to appear in the arbitration, the attorney shall serve a certificate in a form prescribed by the State Bar of California on the arbitrator, arbitrators, or arbitral forum, the State Bar of California, and all other parties and counsel in the arbitration whose addresses are known to the attorney. The certificate shall state all of the following:

(1) The case name and number, and the name of the arbitrator, arbitrators, or arbitral forum assigned to the proceeding in which the attorney seeks to appear.

(2) The attorney's residence and office address.

(3) The courts before which the attorney has been admitted to practice and the dates of admission.

(4) That the attorney is currently a member in good standing of, and eligible to practice law before, the bar of those courts.

(5) That the attorney is not currently on suspension or disbarred from the practice of law before the bar of any court.

(6) That the attorney is not a resident of the State of California.

(7) That the attorney is not regularly employed in the State of California.

(8) That the attorney is not regularly engaged in substantial business, professional, or other activities in the State of California.

(9) That the attorney agrees to be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of California.

(10) The title of the court and the cause in which the attorney has filed an application to appear as counsel pro hac vice in this state or filed a certificate pursuant to this section in the preceding two years, the date of each application or certificate, and whether or not it was granted. If the attorney has made repeated appearances, the certificate shall reflect the special circumstances that warrant the approval of the attorney's appearance in the arbitration.

(11) The name, address, and telephone number of the active member of the State Bar of California who is the attorney of record.

(d) The arbitrator, arbitrators, or arbitral forum may approve the attorney's appearance if the attorney has complied with subdivision (c). Failure to timely file and serve the certificate described in subdivision (c) shall be grounds for disapproval of the appearance and disqualification from serving as an attorney in the arbitration in which the certificate was filed. In the absence of special circumstances, repeated appearances shall be grounds for disapproval of the appearance and disqualification from serving as an attorney in the arbitration in which the certificate was filed.

(e) Within a reasonable period of time after the arbitrator, arbitrators, or arbitral forum approves the certificate, the attorney shall file the certificate with the State Bar of California and serve the certificate as described in Section 1013a on all parties and counsel in the arbitration whose address is known to the attorney.

(f) An attorney who fails to file or serve the certificate required by this section or files or serves a certificate containing false information

or who otherwise fails to comply with the standards of professional conduct required of members of the State Bar of California shall be subject to the disciplinary jurisdiction of the State Bar with respect to that certificate or any of his or her acts occurring in the course of the arbitration.

(g) Notwithstanding any other provision of law, including Section 6125 of the Business and Professions Code, an attorney who is a member in good standing of the bar of any state may represent the parties in connection with rendering legal services in this state in the course of and in connection with an arbitration pending in another state.

(h) Notwithstanding any other provision of law, including Section 6125 of the Business and Professions Code, any party to an arbitration arising under collective bargaining agreements in industries and provisions subject to either state or federal law may be represented in the course of, and in connection with, those proceedings by any person, regardless of whether that person is licensed to practice law in this state.

(i) Nothing in this section shall apply to Division 4 (commencing with Section 3201) of the Labor Code.

(j) (1) In enacting the amendments to this section made by Assembly Bill 2086 of the 1997–98 Regular Session, it is the intent of the Legislature to respond to the holding in Birbrower v. Superior Court (1998) 17 Cal.4th 117, as modified at 17 Cal.4th 643a (hereafter Birbrower), to provide a procedure for nonresident attorneys who are not licensed in this state to appear in California arbitration proceedings.

(2) In enacting subdivision (h), it is the intent of the Legislature to make clear that any party to an arbitration arising under a collective bargaining agreement governed by the laws of this state may be represented in the course of and in connection with those proceedings by any person regardless of whether that person is licensed to practice law in this state.

(3) Except as otherwise specifically provided in this section, in enacting the amendments to this section made by Assembly Bill 2086 of the 1997–98 Regular Session, it is the Legislature's intent that nothing in this section is intended to expand or restrict the ability of a party prior to the decision in Birbrower to elect to be represented by any person in a nonjudicial arbitration proceeding, to the extent those rights or abilities existed prior to that decision. To the extent that Birbrower is interpreted to expand or restrict that right or ability pursuant to the laws of this state, it is hereby abrogated except as specifically provided in this section.

(4) In enacting subdivision (i), it is the intent of the Legislature to make clear that nothing in this section shall affect those provisions of law governing the right of injured workers to elect to be represented by any person, regardless of whether that person is licensed to practice law

in this state, as set forth in Division 4 (commencing with Section 3200) of the Labor Code.

(k) This section shall be operative until January 1, 2011, and on that date shall be repealed.

SEC. 2. Section 1282.4 of the Code of Civil Procedure, as amended by Section 2 of Chapter 607 of the Statutes of 2005, is amended to read:

1282.4. (a) A party to the arbitration has the right to be represented by an attorney at any proceeding or hearing in arbitration under this title. A waiver of this right may be revoked; but if a party revokes the waiver, the other party is entitled to a reasonable continuance for the purpose of procuring an attorney.

(b) This section shall become operative on January 1, 2011.

SEC. 3. (a) The State Bar of California shall collect and record the information reported to the State Bar on certificates described in Section 1282.4 of the Code of Civil Procedure and any other information reported or otherwise readily available to the State Bar that the State Bar deems appropriate to assist the Legislature in evaluating the operation and enforcement of, and compliance with, Section 1282.4 of the Code of Civil Procedure, including, but not limited to, all of the following:

(1) The extent to which out-of-state attorneys apply for and are approved to make repeated appearances in arbitration hearings or proceedings pursuant to Section 1282.4 of the Code of Civil Procedure, during the two-year period covered by the certificate, including the extent to which the attorneys who apply to appear as out-of-state arbitration counsel have previously appeared as counsel pro hac vice.

(2) The names of the arbitrators or arbitral forums approving each appearance by an out-of-state attorney.

(3) Any special circumstances that have been found by an arbitrator, arbitrators, or arbitral forum to warrant repeat appearances.

(4) The volume, nature, and status of any complaints, inquiries, or referrals to the State Bar of California, an arbitrator, arbitrators, or arbitral forum regarding an alleged violation of this section.

(b) On or before December 31, 2009, the State Bar of California shall report to the Legislature the findings and recommendations of the State Bar regarding the information described in subdivision (a). Those findings and recommendations shall include, but are not limited to, the need to improve compliance with the provisions of Section 1282.4 of the Code of Civil Procedure. If requested by the Legislature, the State Bar of California shall provide supporting documentation regarding its findings and recommendations.

(c) If, prior to the report described in subdivision (b), the State Bar of California finds a pattern of noncompliance with, or abuse of, Section 1282.4 of the Code of Civil Procedure, the State Bar shall promptly

notify the Chairs of the Senate and Assembly Committees on the Judiciary of that pattern of noncompliance or abuse.

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

CHAPTER 358

An act to amend Sections 456, 457, and 458 of the Military and Veterans Code, relating to military and veterans.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 456 of the Military and Veterans Code is amended to read:

456. General courts-martial have power:

(a) To try commissioned officers, warrant officers, and enlisted members of the active militia.

(b) To adjudge:

(1) Dismissal, in the case of a commissioned or warrant officer.

(2) Dishonorable discharge, in the case of an enlisted member.

(3) Any other punishment authorized for a special court-martial handling analogous charges under the Uniform Code of Military Justice and the federal Manual for Courts-Martial, including, but not limited to, up to one year in confinement.

SEC. 2. Section 457 of the Military and Veterans Code is amended to read:

457. Special courts-martial have power:

(a) To try commissioned officers, warrant officers, and enlisted members of the active militia.

(b) To adjudge any punishment authorized for a special court-martial handling analogous charges under the Uniform Code of Military Justice and the federal Manual for Courts-Martial, but in no case more than 180 days in confinement.

SEC. 3. Section 458 of the Military and Veterans Code is amended to read:

458. Summary courts-martial have power:

(a) To try enlisted members of the active militia unless they object thereto.

(b) To adjudge any punishment authorized for a summary court-martial handling analogous charges under the Uniform Code of Military Justice and the federal Manual for Courts-Martial, including, but not limited to, up to 30 days in confinement.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 359

An act to amend Sections 1, 2, 3, 4, 5, 5A, 5B, 5C, 5D, 5E, 6, 7, 7.5, 8, 9, 10, 11, 12, 12.5, 13, 14, 15, 15.1, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941), relating to the Monterey Peninsula Airport District.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 1 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Section 1. Monterey Peninsula Airport District Created. A public airport district is hereby created and designated as the "Monterey Peninsula Airport District." The territory and boundaries of the district shall be all of the territory in the County of Monterey within the following boundaries:

Beginning at the mouth of the Carmelo River at the shore line of the Pacific Ocean; thence easterly up the Carmelo River to the southeast corner of Lot 1 of the Rancho Canada de la Segunda; thence north along the east line of Lot 1 of said rancho to the northeast corner of said Lot 1 on the north line of said rancho; thence east following the north line of Rancho Canada de la Segunda and the north boundary line of the James Meadow Tract to the northeast corner of the James Meadow Tract; thence northeasterly to the most easterly corner of Tract No.2 of the City Lands of Monterey on the south boundary of Laguna Seca Rancho;

thence following the boundary of Laguna Seca Rancho southeasterly to the southeast corner thereof; thence north following the east boundary to the northeast corner of said Laguna Seca Rancho; thence leaving the boundary of said ranch northwesterly along a direct line connecting the northeast corner of the Laguna Seca Rancho with the northeast corner of the Noche Buena Rancho, to its intersection with the produced division line of Lots 9 and 1 of the said Noche Buena Rancho; thence west along the said produced line and boundary of said Lots 9 and 1 to the shore of the Pacific Ocean; thence southerly and westerly along said shore line to the place of beginning. Reference is hereby made for further particulars to the Official Map of Monterey County, compiled by Lou G. Hare, 1898, on file in the office of the county recorder of Monterey County.

SEC. 2. Section 2 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 2. Purposes of Act. The purposes of this act are to empower and enable the district to acquire, own, lease, improve, operate, and maintain, or cause to be operated and maintained, a public airport or airports, with the necessary lands, devices, appurtenances, and approaches, for civil and military purposes.

SEC. 3. Section 3 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 3. Corporate Powers. The Monterey Peninsula Airport District is hereby declared to be, and established as, a body corporate and politic, and, in addition to other powers herein granted, shall have and is hereby granted all of the following powers:

(a) Perpetual Succession. To have perpetual succession.

(b) Lawsuits. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) Seal. To adopt a seal and alter it at pleasure.

(d) Property. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of, real or personal property of every kind within or outside the district necessary to the full exercise of its power.

(e) Improvements. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain, and operate any and all works or improvements within or outside the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve, any works or improvements acquired by the district in accordance with this act.

(f) Eminent Domain. To exercise the right of eminent domain to take any property necessary to carry out any of the objects or purposes of this act.

(g) Indebtedness.

(1) To incur indebtedness and to issue bonds pursuant to Section 61126 of the Government Code.

(2) To incur indebtedness and to issue bonds pursuant to the bond provisions of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

(3) To incur indebtedness and to issue negotiable promissory notes pursuant to a resolution adopted by vote of a majority of the members of the district's board of directors. The amount of indebtedness under this paragraph shall not exceed one million dollars ($1,000,000) and shall be repaid within 10 years from the date on which it is incurred.

(4) To incur indebtedness using securitized limited obligation notes pursuant to Article 7.4 (commencing with Section 53835) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(5) To borrow money from the United States or any federal agency or department for the acquisition or improvement of land for district purposes. The district may borrow this money pursuant to a resolution adopted by vote of a majority of the members of the district's board of directors. The resolution shall specify the particular project being undertaken and the amount, term, and method of repayment of the loan. When received, the money shall be deposited in a special fund and spent only for the purposes for which the loan was approved. If a surplus remains after the completion of the project, the surplus shall be applied to repaying the loan.

(6) Notwithstanding any other provision of law, the maximum rate of interest on indebtedness issued pursuant to this subdivision shall not exceed the rate prescribed by Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. The interest may be fixed or variable and may be simple or compound. The interest shall be payable at the time or times determined by the district.

(h) Taxes. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in accordance with this act.

(i) Exercise of Powers—Contracts. To make contracts, and to employ persons and labor, and to do all acts necessary for the full exercise of all powers vested in the district, or in any of the officers of the district, by this act.

(j) Disposal of Property. To lease, sell, or dispose of any property, or any interest in property, acquired in fee, or otherwise, whenever in the

judgment of the board of directors the property, or any interest or part of the property, is no longer required for the purposes of the district, or may be leased for any purpose without interfering with the use of the property for the purposes of the district, and to pay any compensation received for the property into the general fund of the district and use the compensation for the purposes of this act.

(k) Operation and Concession Agreements. To make contracts for the operation or maintenance of any airport of the district, or for any concession thereupon necessary or convenient to the district.

(*l*) Police Powers of District.

(1) To equip and maintain a police department, to adopt ordinances, resolutions, and regulations for the protection of the public peace, health, or safety, in or upon any airport of the district, or in or upon any approach to the airport, owned or controlled by the district and to prescribe penalties for the violation of those ordinances, resolutions, or regulations.

(2) Violation of any ordinance, resolution, or regulation shall constitute a misdemeanor, unless, by ordinance, the district designates the violation as an infraction.

(m) General Powers. To possess and exercise all powers necessary or appropriate to a public airport district that are not prohibited by the California Constitution, including all powers granted by, or that may be hereafter granted by, any general law of the state to any public airport district and all powers incidental to, and necessary or convenient in connection with, the exercise of the powers generally or specifically granted to the district by this act.

SEC. 4. Section 4 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 4. Board of Directors.

(a) All powers granted to and vested in the district by this act, except as otherwise provided, shall be exercised by the board of directors of the district, to be designated the "Board of Directors of the Monterey Peninsula Airport District." The board of directors shall be the governing body of the district and, subject to the express limitations of this act, shall be vested with all powers necessary or convenient for a complete and adequate system of government for the district, consistent with the California Constitution, including all powers now or hereafter granted by general law to boards of directors or other governing bodies of airport districts in the state.

(b) The board of directors shall be comprised of five members, and shall be the legislative body of the district, each of the members of which shall have the right to vote upon all questions coming before it.

SEC. 5. Section 5 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 5. General District Elections. The district shall hold a general district election governed by the provisions of the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) for the election of directors on the first Tuesday after the first Monday in November of each even-numbered year.

SEC. 6. Section 5A of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 5A. Other Elections. All other district elections that may be held by authority of this act or any general law shall be held substantially in the manner provided in this act for general district elections or in conformity with the general law to the extent the general law provides for the procedure and manner of holding those elections.

SEC. 7. Section 5B of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 5B. Propositions. Any proposition that may lawfully be submitted to the voters of the district for their approval or rejection, may be submitted by the board of directors at any general district election, or other election called for that purpose.

SEC. 8. Section 5C of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 5C. Meetings of the Board of Directors. The board of directors shall provide by ordinance or resolution for the time and place of holding its meetings and the manner in which its special meetings may be called. However, there shall be at least one regular meeting in each month. Any regular meeting may be adjourned to a date and hour certain, and the adjourned meeting shall be a regular meeting for all purposes. All legislative sessions of the board of directors, whether regular or special, shall be open to the public.

SEC. 9. Section 5D of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 5D. Quorum. A majority of the board of directors shall constitute a quorum for the transaction of business.

SEC. 10. Section 5E of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 5E. Conduct of Meetings. The board of directors shall determine its own rules of procedure for orderly meetings.

SEC. 11. Section 6 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 6. Legislation.

(a) (1) The board of directors shall act in legislative matters only by ordinance or resolution. Other actions of the board of directors, unless otherwise provided by this act, may be undertaken by resolution, motion, or order.

(2) The votes shall be counted upon the passage of all ordinances and resolutions, and entered upon the record of the proceedings of the board of directors. Upon the request of any member of the board of directors, the vote on any matter shall be recorded.

(3) No ordinance or resolution shall be passed without receiving the votes of at least three members of the board of directors.

(b) (1) Each ordinance shall be headed by a brief title, which shall indicate its purpose.

(2) The ordaining clause of all ordinances adopted by the board of directors shall be, "The Board of Directors of the Monterey Peninsula Airport District do ordain as follows:". The ordaining clause of all ordinances passed by initiative shall be, "The People of the Monterey Peninsula Airport District do ordain as follows:".

(c) (1) No ordinance shall be passed by the board of directors until at least five days after its introduction or until publication at least once in a newspaper of general circulation within the district at least three days before its adoption.

(2) When an ordinance is amended before its final adoption, and after its publication, it shall be republished in full as amended at least one day before its adoption as amended.

(3) Notwithstanding any other provision of this act, if the amendment is only for the correction of clerical errors or omissions of form, the ordinance need not be given a first reading or a republication as corrected.

(d) Except as otherwise provided by law, the levying of any tax or assessment or the imposing of any penalty shall be undertaken by ordinance.

(e) (1) No ordinance shall be amended or repealed except by ordinance. No ordinance shall be amended by reference to its title only.

(2) All ordinances shall be signed by the chairperson or acting chairperson of the board of directors and attested to by the secretary or acting secretary.

(3) All ordinances shall take effect 30 days after final passage and approval, except that any ordinance determined and declared by the board of directors to be necessary for the immediate preservation of the public peace, health, or safety of the district shall take effect immediately upon final passage, and a statement of facts constituting the urgency shall be set forth in the ordinance.

SEC. 12. Section 7 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 7. Officers. The members of the board of directors, the secretary of the board, a general manager, one or more assistant managers, an auditor, and district counsel are the officers of the district. No member of the board of directors shall be qualified for election or appointment

as a member unless he or she has been a registered voter of the district for at least 30 days immediately preceding the deadline for filing nomination documents. Each member of the board of directors shall reside in the district during his or her incumbency. The board of directors shall, by ordinance, prescribe the powers, duties, and compensation of all the officers, unless those powers, duties, and compensation are prescribed by this act. In those cases, the board may, by ordinance, prescribe additional powers and duties for any officer consistent with this act.

SEC. 13. Section 7.5 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 7.5. Compensation.

(a) Each member of the board of directors shall receive compensation in an amount not to exceed the amount set forth in Section 22407 of the Public Utilities Code for each regular or special meeting of the board attended or each day's service rendered as a director at the request of the board, which amount shall be fixed by the board from time to time.

(b) Notwithstanding subdivision (a), no director shall receive compensation for more than four days in any calendar month.

(c) Each director shall also be allowed, with the approval of the board, all travel and other expenses necessarily incurred by the member in the actual performance of the member's duties. Reimbursement for expenses pursuant to this subdivision is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 14. Section 8 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 8. Subordinate Officers and Employees. The board of directors may create and abolish, by ordinance or resolution, all offices and employments other than those created by this act, fix the compensation, powers, and duties, of those offices and employments, and determine the procedure for removing any officer or employee therefrom.

SEC. 15. Section 9 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 9. Official Bonds. The board of directors shall fix the amount of all bonds to be required of district officers and employees, the mode of approving the bonds, and shall determine the particular officers and employees who shall be required to furnish bonds.

SEC. 16. Section 10 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 10. Oath of Office. Every officer of the district before entering upon the duties of office, shall take and subscribe the oath of office as provided for in the California Constitution and shall file it with the secretary of the board of directors.

SEC. 17. Section 11 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 11. Vacancies. A vacancy on the board of directors shall be filled pursuant to Section 1780 of the Government Code.

SEC. 18. Section 12 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 12. Delegation of Powers by Board of Directors. The board of directors may delegate any power, or powers, granted to the district, or to the board of directors, by this act, except legislative powers and ministerial functions specifically required by this act to be performed by the board or its officers, to other officers and employees of the district as the board determines to be proper and in the public interest, if that delegation of power is not in conflict with the California Constitution.

SEC. 19. Section 12.5 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 12.5. Collection of Fines. Notwithstanding any other provision of law, an amount equivalent to 50 percent of the total of all fines or forfeitures collected for violations of district ordinances shall be transferred, once a month, by the county treasurer to the account of the district.

SEC. 20. Section 13 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 13. Allocation of Property Taxes by County. The auditor of Monterey County shall allocate to the district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 21. Section 14 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 14. Depositories. The board shall designate depositories for the custody of the funds of the district. A depository shall give security sufficient to secure the district against possible loss, and shall pay the warrants, checks, electronic fund transfer authorizations, and other instructions for payment prepared by the auditor for demands against the district under rules that the board may prescribe.

SEC. 22. Section 15 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 15. Auditor; Duties and Payment of Warrants.

(a) The auditor shall install and maintain a system of auditing and accounting that shall competently and at all times show the financial condition of the district. The system of auditing and accounting shall be consistent with generally accepted accounting principles.

(b) The auditor shall prepare warrants, checks, electronic fund transfer authorizations, and other instructions for payment to pay demands made

against the district if the demands have been approved by at least three directors. The auditor's payment procedures shall be consistent with generally accepted accounting principles.

(c) Notwithstanding subdivision (b), warrants, checks, electronic fund transfer authorizations, or other forms for payment of claims or demands approved by the auditor in accordance with a budget approved by the board of directors need not be approved by one or more members of the board of directors prior to payment.

SEC. 23. Section 15.1 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 15.1. Claims. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code or by other statutes or regulations expressly applicable to claims for money or damages.

SEC. 24. Section 16 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 16. Construction Projects.

(a) In the erection, construction, improvement, and repair of all public buildings, structures, and airports of the district, and in supplying materials for those activities, when the expenditure exceeds the sum of five thousand dollars ($5,000), the contract shall be awarded by the board of directors to the lowest responsible bidder after notice by publication in a newspaper of general circulation printed, published, and circulated in the district under conditions that the board may specify. The detailed procedure for carrying out this section shall be prescribed by ordinance.

(b) The board of directors may reject any and all bids presented, and may readvertise for other bids.

(c) The board of directors may determine and declare by a four-fifths vote of all its members that the work or improvement in question may be more economically or satisfactorily performed as a project of an agency of the federal or state government, and after the adoption of a resolution to that effect, it may proceed to have the work or improvement made through that agency and need not follow the requirements imposed by this section.

(d) This section shall not apply if the board elects to become subject to the Uniform Public Construction Cost Accounting Act (Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code).

SEC. 25. Section 17 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 17. Benefit Assessments for Operation and Maintenance. The district may levy benefit assessments for operations and maintenance

consistent with the requirements of Article XIII D of the California Constitution, including, but not limited to, benefit assessments levied pursuant to any of the following:

(a) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(b) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(c) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(d) The Landscaping and Lighting Assessment Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), notwithstanding Section 22501 of the Streets and Highways Code.

(e) Any other statutory authorization enacted on or after January 1, 2006.

SEC. 26. Section 18 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 18. Fiscal Year. The fiscal year of the Monterey Peninsula Airport District shall commence on the first day of July of each year, or at any other time fixed by ordinance.

SEC. 27. Section 19 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 19. Benefit Assessments to Finance Acquisition or Improvement. The district may levy benefit assessments to finance the acquisition of equipment, land or facilities or the improvement of land or facilities for airport purposes consistent with the requirements of Article XIII D of the California Constitution, including, but not limited to, benefit assessments levied pursuant to any of the following:

(a) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(b) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(c) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(d) The Landscaping and Lighting Assessment Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code, notwithstanding Section 22501 of the Streets and Highways Code).

(e) Any other statutory authorization enacted on or after January 1, 2006.

SEC. 28. Section 20 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 20. Levy of Special Tax. The district may levy special taxes pursuant to:

(a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

(b) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 29. Section 21 of the Monterey Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 21. Lien of District Taxes. All district taxes provided for in this act shall become delinquent at the same time as county taxes and shall be subject to the same penalties for delinquency. All district taxes shall be a lien on all the taxable property in the territory comprising the district and shall be of the same force and effect as liens for county taxes, and their collection shall be enforced by the same means as provided for the enforcement of liens for county taxes.

SEC. 30. Section 22 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 22. Acceptance of Revenue, Grants, Goods, or Services. The district may accept any revenue, money, grants, goods, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

SEC. 31. Section 23 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 23. Borrowing. In addition to any other existing authority, the district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 32. Section 24 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 24. Alteration of Boundaries, Annexation of Contiguous Territory; Changes of Organization. The boundaries of the district may be altered and contiguous territory in the same county annexed thereto and other changes of organization or reorganizations made, as provided in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

SEC. 33. Section 25 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 25. Inapplicable Statutes. The Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800) of the Streets and Highways Code) and any amendments to that act are not applicable to the district.

SEC. 34. Section 26 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 26. Value of Bonds. All bonds issued by the district under this act are hereby given the same force, value, effect, and use, as bonds issued by any municipality in this state, and shall be free and exempt from all taxation within the state.

SEC. 35. Section 27 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 27. Insertion of Provisions Prescribed as Condition for Federal Aid. The board of directors of the district may require the insertion in specifications and contracts for any airport district improvement or acquisition financed or paid for in whole or in part out of moneys obtained from the United States of America, or any department or agency thereof, as a loan, grant, or appropriation, provisions or terms as may be prescribed by the United States of America, or a federal department or agency, as a condition upon which those federal funds are loaned, granted, or appropriated.

SEC. 36. Section 28 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 28. Repeal of Act Not to Effect Bonds. No repeal or amendment of this act shall in any way affect or release any of the property in the district from the obligations of any outstanding bond or indebtedness of the district, nor shall any repeal or amendment become effective or operative in so far as those bonds or indebtedness are concerned until they have been fully paid and discharged.

SEC. 37. Section 29 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 29. Construction of Act. This act shall be liberally construed to promote the objects thereof, and to carry out its intents and purposes.

SEC. 38. Section 30 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 30. Constitutionality. If any section, or sections, or part of any section, of this act, is found to be unconstitutional or invalid, for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

SEC. 39. Section 31 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941) is amended to read:

Sec. 31. Title. This act shall be known and may be cited as the "Monterey Peninsula Airport District Act," and any reference to this act by that designation shall be deemed sufficient for all purposes.

SEC. 40. 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.

No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for any other costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 360

An act to amend Section 61105 of, and to add Section 25825.5 to, the Government Code, relating to San Luis Obispo County.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 25825.5 is added to the Government Code, to read:

25825.5. (a) The Legislature finds and declares all of the following:

(1) There are ongoing discharges to the Los Osos Discharge Prohibition Zone established in the Water Quality Control Plan for the Central Coast Basin.

(2) The agency responsible for eliminating these discharges is the Los Osos Community Services District, which is a relatively new agency, formed in 1998.

(3) The Central Coast Regional Water Quality Control Board has imposed substantial fines on the Los Osos Community Services District for failing to make adequate progress toward eliminating these discharges.

(4) The Los Osos Community Services District has a relatively small staff that has no experience of successfully designing and constructing facilities of the size and type needed to eliminate these discharges.

(5) The County of San Luis Obispo has a larger staff that has experience in successfully designing large public works projects.

(6) There is an urgent need to protect the public health and safety by eliminating these discharges and the most feasible alternative is best accomplished by a temporary realignment of certain wastewater collection and treatment powers between the Los Osos Community Services District and the County of San Luis Obispo.

(7) It is the intent of the Legislature in enacting this section and amending Section 61105 to authorize the County of San Luis Obispo to design, construct, and operate a wastewater collection and treatment project that will eliminate these discharges, particularly in the prohibition zone, to avoid a wasteful duplication of effort and funds, and to temporarily prohibit the Los Osos Community Services District from exercising those powers.

(b) As used in this section, the following definitions apply:

(1) "Board" means the Board of Supervisors of the County of San Luis Obispo.

(2) "County" means the County of San Luis Obispo.

(3) "District" means the Los Osos Community Services District, formed pursuant to the Community Services District Law, Division 3 (commencing with Section 61000) of Title 3, located in San Luis Obispo County.

(4) "Prohibition zone" means that territory within the Baywood Park-Los Osos area of the county that is subject to the wastewater discharge prohibition imposed by the Central Coast Regional Water Quality Control Board pursuant to Resolution 83-13.

(c) The county may undertake any efforts necessary to construct and operate a community wastewater collection and treatment system to meet the wastewater collection and treatment needs within the district. These efforts may include programs and projects for recharging aquifers, preventing saltwater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. These efforts shall include any services that the county deems necessary, including, but not be limited to, any planning, design, engineering, financial analysis, pursuit of grants to mitigate affordability issues, administrative support, project management, and environmental review and compliance services. The county shall not exercise any powers authorized by this section outside the district.

(d) Nothing in this section shall affect the district's power to do any of the following:

(1) Operate wastewater collection and treatment facilities within the district that the district was operating on January 1, 2006.

(2) Provide facilities and services, other than wastewater collection and treatment.

(e) To finance the construction and operation of a wastewater collection and treatment system, the county may levy benefit assessments consistent with the requirements of Article XIII D of the California Constitution, pursuant to any of the following:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(3) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(f) The county may charge standby charges for sewer services, consistent with the requirements of Article XIII D of the California Constitution, pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5).

(g) The county may impose and collect user fees and charges and any other sources of revenue permitted by law sufficient to cover the reasonable costs of any wastewater collection or treatment services provided pursuant to this section.

(h) Promptly upon the adoption of a resolution by the board requesting this action, the board of directors of the district shall convey to the county any requested retained rights-of-way, licenses, funds, and permits previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005. The county shall use those fee interests, rights-of-way, licenses, and funds for the purpose of furthering the construction and operation of a wastewater collection and treatment system pursuant to this section.

(i) After the approval of a benefit assessment, the board shall complete a due diligence review before deciding to proceed with the construction and operation of a wastewater collection and treatment system. The board shall consider any relevant factors, including, but not limited to, the prompt availability of reasonable and sufficient financing, the status of enforcement actions, the successful development of reasonable project technology and location options, the availability of any necessary permits and other approvals, and the absence of other significant impediments. At the completion of this due diligence review, the board shall adopt a resolution declaring its intention to proceed or not proceed with the construction and operation of the wastewater collection and treatment system.

(j) Collection of assessments may not commence until the adoption of the resolution to proceed pursuant to subdivision (i).

(k) The county shall have no power or responsibility to construct and operate a wastewater collection and treatment system pursuant to this section and the district shall resume that power and responsibility when any of the following occurs:

(1) If the board adopts a resolution not to hold a benefit assessment election pursuant to subdivision (e).

(2) If there is a majority protest to a benefit assessment proposed by the county, on the date of the resolution adopted by the board determining that the majority protest exists.

(3) If there is not a majority protest, but the board adopts a resolution, pursuant to subdivision (i), which declares that the county will no longer exercise its powers pursuant to this section, on the date specified in the board's resolution.

(4) If the county constructs and operates a wastewater collection and treatment system pursuant to this section, not less than three years after the operation of the system commences, the board and the board of directors of the district shall mutually apply to the Central Coast Regional Water Quality Control Board for a modification of the waste discharge permit, requesting permission to transfer of the responsibility to operate the wastewater collection and treatment system from the county to the district. Consistent with that modification, the board shall adopt a resolution that specifies the date on which the county will no longer exercise its powers pursuant to this section.

(*l*) When the power and responsibility to construct and operate a wastewater collection and treatment system transfers from the county to the district pursuant to subdivision (k), the county shall do all of the following:

(1) Promptly convey to the district any remaining retained fee interests in any real property, rights-of-way, licenses, other interests in real property, funds, and other personal property that the county previously acquired pursuant to subdivision (h).

(2) Promptly convey to the district the wastewater collection and treatment system that the county constructed pursuant to this section.

(3) Continue to collect any necessary assessments and use them to repay any indebtedness incurred by the county to finance the construction of the wastewater collection and treatment system pursuant to this section.

(4) The county shall cease collecting any benefit assessments after repayment of any indebtedness incurred by the county to finance the construction of the wastewater collection and treatment system.

(m) Nothing in this section shall be construed as imposing upon the county any liability for any district decisions or actions, or failures to act, or imposing upon the county any liability for any decisions or actions, or failures to act, by any district officers, employees, or agents. In

addition, nothing in this section shall be construed as imposing upon the county any liability for any prior or subsequent district liabilities, whether liquidated or contingent, or any prior or subsequent liabilities of district officers, employees, or agents, whether liquidated or contingent.

SEC. 2. Section 61105 of the Government Code is amended to read:

61105. (a) The Legislature finds and declares that the unique circumstances that exist in certain communities justify the enactment of special statutes for specific districts. In enacting this section, the Legislature intends to provide specific districts with special statutory powers to provide special services and facilities that are not available to other districts.

(b) (1) The Los Osos Community Services District may borrow money from public or private lenders and loan those funds to property owners within the district to pay for the costs of decommissioning septic systems and constructing lateral connections on private property to facilitate the connection of those properties to the district's wastewater treatment system. The district shall lend money for this purpose at rates not to exceed its cost of borrowing and the district's cost of making the loans. The district may require that the borrower pay the district's reasonable attorney's fees and administrative costs in the event that the district is required to take legal action to enforce the provisions of the contract or note securing the loan. The district may elect to have the debt payments or any delinquency collected on the tax roll pursuant to Section 61116. To secure the loan as a lien on real property, the district shall follow the procedures for the creation of special tax liens in Section 53328.3 of this code and Section 3114.5 of the Streets and Highways Code.

(2) (A) Except as otherwise provided in this paragraph, on and after January 1, 2007, the Los Osos Community Services District shall not undertake any efforts to design, construct, and operate a community wastewater collection and treatment system within, or for the benefit of, the district. The district shall resume those powers on the date specified in any resolution adopted pursuant to subdivision (j) of Section 25825.5.

(B) Nothing in this paragraph shall affect the district's power to do any of the following:

(i) Operate wastewater collection and treatment facilities within the district that the district was operating on January 1, 2006.

(ii) Provide facilities and services in the territory that is within the district, but outside the prohibition zone.

(iii) Provide facilities and services, other than wastewater collection and treatment, within the prohibition zone.

(C) Promptly upon the adoption of a resolution by the Board of Supervisors of the County of San Luis Obispo requesting this action

pursuant to subdivision (h) of Section 25825.5, the district shall convey to the County of San Luis Obispo all retained rights-of-way, licenses, other interests in real property, funds, and other personal property previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005.

(c) The Heritage Ranch Community Services District may acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities for its own use, and sell those petroleum products to the district's property owners, residents, and visitors. The authority granted by this subdivision shall expire when a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities, and sell those petroleum products to the district and its property owners, residents, and visitors. At that time, the district shall either (1) diligently transfer its title, ownership, maintenance, control, and operation of those petroleum tanks and related facilities at a fair market value to that private person or entity, or (2) lease the operation of those petroleum tanks and related facilities at a fair market value to that private person or entity.

(d) The Wallace Community Services District may acquire, own, maintain, control, or operate the underground gas distribution pipeline system located and to be located within Wallace Lake Estates for the purpose of allowing a privately owned provider of liquefied petroleum gas to use the underground gas distribution system pursuant to a mutual agreement between the private provider and the district or the district's predecessor in interest. The district shall require and receive payment from the private provider for the use of that system. The authority granted by this subdivision shall expire when the Pacific Gas and Electric Company is ready, willing, and able to provide natural gas service to the residents of Wallace Lake Estates. At that time, the district shall diligently transfer its title, ownership, maintenance, control, and operation of the system to the Pacific Gas and Electric Company.

(e) The Cameron Park Community Services District, the El Dorado Hills Community Services District, the Golden Hills Community Services District, the Mountain House Community Services District, the Rancho Murieta Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, and the Tenaja Meadows Community Services District, which enforced covenants, conditions, and restrictions prior to January 1, 2006, pursuant to the former Section 61601.7 and former Section 61601.10, may continue to exercise the powers set forth in the former Section 61601.7 and the former Section 61601.10.

(f) The Bear Valley Community Services District, the Bell Canyon Community Services District, the Cameron Estates Community Services

District, the Lake Sherwood Community Services District, the Saddle Creek Community Services District, and the Wallace Community Services District may, for roads owned by the district and that are not formally dedicated to or kept open for use by the public for the purpose of vehicular travel, by ordinance, limit access to and the use of those roads to the landowners and residents of that district.

(g) Notwithstanding any other provision of law, the transfer of the assets of the Stonehouse Mutual Water Company, including its lands, easements, rights, and obligations to act as sole agent of the stockholders in exercising the riparian rights of the stockholders, and rights relating to the ownership, operation, and maintenance of those facilities serving the customers of the company, to the Hidden Valley Community Services District is not a transfer subject to taxes imposed by Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(h) The El Dorado Hills Community Services District and the Rancho Murieta Community Services District may each acquire, construct, improve, maintain, and operate television receiving, translating, or distribution facilities, provide television and television-related services to the district and its residents, or authorize the construction and operation of a cable television system to serve the district and its residents by franchise or license. In authorizing the construction and operation of a cable television system by franchise or license, the district shall have the same powers as a city or a county under Section 53066.

(i) The Mountain House Community Services District may provide facilities for television and telecommunications systems, including the installation of wires, cables, conduits, fiber optic lines, terminal panels, service space, and appurtenances required to provide television, telecommunication, and data transfer services to the district and its residents, and provide facilities for a cable television system, including the installation of wires, cables, conduits, and appurtenances to service the district and its residents by franchise or license, except that the district may not provide or install any facilities pursuant to this subdivision unless one or more cable franchises or licenses have been awarded under Section 53066 and the franchised or licensed cable television and telecommunications services providers are permitted equal access to the utility trenches, conduits, service spaces, easements, utility poles, and rights-of-way in the district necessary to construct their facilities concurrently with the construction of the district's facilities. The district shall not have the authority to operate television, cable, or telecommunications systems. The district shall have the same powers as a city or county under Section 53066 in granting a franchise or license for the operation of a cable television system.

SEC. 3. Due to the unique circumstances concerning the wastewater treatment needs in the Los Osos Community Services District, as set forth in Section 1 of this act, it is necessary that, 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.

CHAPTER 361

An act to amend Sections 1865 and 33521 of the Financial Code, relating to negotiable instruments.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

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

SECTION 1. Section 1865 of the Financial Code is amended to read:

1865. (a) No licensee shall issue any form of traveler's check for sale in this state unless all of the following are satisfied:

(1) The traveler's check clearly identifies the licensee as the issuer of the traveler's check.

(2) The traveler's check is not misleading in any material respect.

(3) The traveler's check complies with all applicable laws.

(b) Before a new licensee issues its first traveler's check for sale in this state, it shall file a certified copy of the form of that traveler's check with the commissioner.

SEC. 2. Section 33521 of the Financial Code is amended to read:

33521. (a) No licensee shall, nor shall any licensee cause or permit any of its California agents to, sell in this state any payment instrument issued by the licensee unless all of the following are satisfied:

(1) The payment instrument clearly identifies the licensee as the issuer of the payment instrument.

(2) The payment instrument is not misleading in any material respect.

(3) The payment instrument complies with all applicable laws.

(b) Before a new licensee issues its first payment instrument for sale in this state, it shall file a certified copy of the form of that payment instrument with the commissioner.
